

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 3158 of 2015 (T)

PETITIONER :

**K.J.ABRAHAM, AGED 68 YEARS,
S/O. CHACKO IPE, KUNNATHU KUZHIYIL HOUSE,
NIRANAM NORTH P.O., THIRUVALLA
REPRESENTED BY HIS POWER OR ATTORNEY HOLDER CHACKO IPE
KUNNATHUKUZHIYIL HOUSE, NIRANAM NORTH P.O.
THIRUVALLA.**

**BY ADVS.SRI.T.P.PRADEEP
SRI.P.K.SATHEES KUMAR**

RESPONDENTS :

- 1. THE TAHSILDAR
TALUK OFFICE, THIRUVALLA - 689 101.**
- 2. THE VILLAGE OFFICER,
VILLAGE OFFICE, NIRANAM, THIRUVALLA - 689 621.**
- 3. REVENUE DIVISIONAL OFFICER,
THIRUVALLA - 689 101.**
- 4. THE DISTRICT COLLECTOR,
PATHANAMTHITTA - 689 645.**
- 5. THE SECRETARY,
AGRICULTURAL DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 6. VARGHESE M. ALEX
MANACHUVATTIL PUTHEN PURACKALAYA CHEMMARAPPALLIL HOUSE,
NIRANAM P.O., THIRUVALLA, PATHANAMTHITTA - 689 621.**
- 7. THE AGRICULTURAL OFFICER,
NIRANAM, THIRUVALLA - 689 621.**

R1 TO R5 BY SENIOR GOVERNMENT PLEADER SRI. MUHAMMED SHAFI M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE SALE DEED DOCUMENT NO. 896/2014 DATED 04/10/2014 REGISTERED IN SUB REGISTRAR OFFICE, KADAPRA.

EXHIBIT-P2: TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED 18/11/2014.

EXHIBIT-P3: TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DATED 22/02/2013.

EXHIBIT-P4: TRUE COPY OF THE REPORT OF THE 2ND RESPONDENT DATED 19/12/2014.

EXHIBIT-P5: TRUE COPY OF THE JUDGMENT DATED 28/02/2013 IN W.P(C) 5650/2013

EXHIBIT-P6: TRUE COPY OF THE COMPLAINT DATED 29/12/2014.

RESPONDENT(S)' EXHIBITS ; NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.3158 OF 2015
.....

Dated this the 11th February, 2015

J U D G M E N T

Ext.P2 issued by the Village officer , turning down the request of the petitioner to effect mutation in respect of the property covered by Ext. P1, referring to non compliance of the direction given by the District Collector to the sixth respondent, who was the predecessor in interest of the property, is under challenge in this writ petition.

2. The petitioner purchased the property having an extent of 9.4 Ares from the sixth respondent as per Ext.P1 sale deed for valuable sale consideration and is enjoying the same to the exclusion of all others. As a matter of fact, the said property forms part of 20 Ares, which was converted by the 6th respondent much prior to the commencement of Act 28 of 2008 and the said portion has been included as 'Purayidom' in the Data Bank Register, as evident from Ext.P4 report of the second respondent/Village Officer . However, it was alleged that, some portion of the land which was not converted as 'purayidom' and was still forming as part of paddy land comprised in the same

survey Number and covered by same title deed, was filled up by the 6th respondent in contravention of the provisions of Act 28 of 2008. It was in the said circumstance, that the District Collector issued an order under Section 13 of the Act 28 of 2008, ordering restoration of the property, which was sought to be challenged by the 6th respondent by filing WP.(C) 5650 of 2013 before this court. The said case was disposed of as per Ext.P5 judgment, directing the 4th respondent/Secretary, Agricultural Department to consider the Revision Petition under the relevant provisions of Act 28 of 2008 and dispose of it in the manner as specified therein; simultaneously ordering to maintain 'status quo'. It is stated that the proceedings are still to be finalised by the said respondent/Secretary. It is with reference to the said proceedings that Ext.P2 has been issued, which however cannot bar the way of the petitioner in getting the relief sought for. Hence this writ petition.

3. Heard the learned Government Pleader as well, who points out that there is no other insinuating circumstance other than the one as mentioned in Ext.P2.

4. After hearing both the sides and after going through the

materials on record, this Court finds that the property owned, possessed and enjoyed by the petitioner covered by Ext.P1 sale deed forms part of the property which was reclaimed much earlier and was not lying as paddy land or wet land as on the date of commencement of the Act, as evident from Ext.P4 report of the Village officer. This being the position, the application preferred by the petitioner for effecting mutation is liable to be considered favourably, so as to enable the petitioner to satisfy the tax in accordance with the provisions of the Kerala Land Tax Act. Even otherwise, it has been held by this Court on many an occasion that, mutation is only a procedure, which is to be complied with, so as to cause change in Registry in accordance with the terms of Transfer of Registry Rules and that the same by itself does not confer or divest title on anybody.

5. In the said circumstance, Ext.P2 is set aside and the second respondent/Village Officer is directed to re-consider the application preferred by the petitioner for effecting mutation. Necessary steps shall be taken and finalised in accordance with law, at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment. The petitioner shall

produce a copy of the judgment along with a copy of the writ petition before the second respondent /Village Officer for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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