

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 3164 of 2015 (U)

PETITIONER :

**RAMACHANDRAN NAIR,
S/O.VASUDEVA PANIKER, PENSIONER, AGED 60 YEARS,
RESIDING AT ILLATHUCHIRA,
MARUTHORVATTUM MURI OF THANNERMUKKAM
NORTH VILLAGE,MARUTHORVATTOM P.O., CHERTHALA.**

**BY ADVS.SRI.T.JAYAKRISHNAN
SRI.R.KRISHNAKUMAR (CHERTHALA)**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA - 688 001**
- 2. THE TAHSILDAR,
THALUK OFFICE, CHERTHALA - 688 524**
- 3. V.KRISHNAN NAIR, S/O.VASUDEVA PANIKER, AGED 82 YEARS,
SIVANANDA BHAVANAM, MARUTHORVATTOM MURI OF
THANNERMUKKAM NORTH VILLAGE,
MARUTHORVATTOM P.O., CHERTHALA -688 545**

**R1 & R2 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT
R3 BY ADVS. SRI.M.D.SASIKUMARAN
SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.DIPU JAMES
SRI.SUNIL KUMAR A.G**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE TAX RECEIPT EVIDENCING PAYMENT OF TAX IN THE JOINT NAMES OF THE PETITIONER AND THE 3RD RESPONDENT DATED 22.5.1999
- P2- A TRUE COPY OF THE DELIVERY KYCHIT DATED 8.10.2009 IN O.S.NO.216/1994 PERTAINING TO THE SHARE OF 3RD RESPONDENT
- P3- A TRUE COPY OF PLAN APPENDED TO THE FINAL DECREE IN O.S.NO.216/1994 ON THE BASIS OF WHICH EXHIBIT P-2 DELIVERY TOOK PLACE
- P4- A TRUE COPY OF LETTER DATED 28.6.2014 IN HAVING NO. H-1.9784/2014 ISSUED BY THE ADDITIONAL TAHSILDAR, THALUK OFFICE CHERTHALA
- P5- A TRUE COPY OF LETTER DATED 4.9.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER WITH FILE NO. H- 19784/2009
- P6- A TRUE COPY OF LEGAL OPINION DATED 3.2.2010 OBTAINED BY THE 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT PERTAINING TO THE ISSUE OF 3 CENTS CLAIMED BY 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3164 of 2015

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. To pass a Writ of Mandamus or appropriate Writ Order or Direction commanding the respondents to bring a logical conclusion to Exhibit P-4 & P-5 proceedings within a time frame fixed by this Honourable Court.

ii. Directing 2nd respondent to remove the name of 3rd respondent as mutation has already effected regarding his share under Exhibit P-2 and P-3 final decree proceedings.

iii. Such other reliefs that are prayed for and found fit to be granted during the nature and course of proceedings.

iv. Awarding costs from the respondents."

2. Grievance of the petitioner as revealed from the proceedings is with regard to the refusal/laxity on the part of the Revenue Authorities in effecting mutation in respect of the property covered by Ext.P1 tax receipt.

3. The learned counsel for the petitioner points out that, the

petitioner as well as the 3rd respondent were co-owners of the property, which was subjected to partition. A final decree was passed by the concerned Civil Court in O.S. No.216 of 1994 and delivery was also effected. Based on the delivery so effected, the 3rd respondent has satisfied the tax after effecting mutation. When the petitioner moved the Revenue Authority to cause the mutation, a claim was put up by the 3rd respondent over an extent of 3 cents and it was in the said circumstances, that the 2nd respondent expressed helplessness with reference to the position as given in Ext.P5 communication issued to the petitioner.

4. The learned counsel for the 3rd respondent submits that, there was yet another civil suit as O.S. No.40 of 1981, which was compromised. This made the said respondent to move the claim, which according to the petitioner is not applicable in view of the finalisation of the proceedings in the partition suit as evident from Ext.P3.

5. The learned counsel for the petitioner also points out that, proper course of action has already been suggested by the Addl. Government Pleader, as per Ext.P6, addressed to the Addl.

Tahsildar, Cherthala; a copy of which has been procured by the petitioner by resorting to the remedy under the Right to Information Act.

6. Heard the learned Government Pleader as well.

7. After hearing both the sides, the writ petition is disposed of, directing the 2nd respondent to reconsider the matter and to pass appropriate orders also in the light of Ext.P3 final decree and Ext.P6 opinion, after giving an opportunity of hearing to both the sides, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 2nd respondent, for further steps.

Sd/-

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

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