IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 3376 of 2015 (V)

PETITIONER:

SUMATHIAMMA, AGED 78 YEARS
W/O.LATE PRABHAKARAN NAIR, ALADY HOUSE, IRINGOLE KARA
PERUMBAVOOR VILLAGE
KUNNATHUNADU TALUK NOW RESIDING AT PLOT NO.100
JAWAHAR NAGAR, KADAVANTHRA, COCHIN-682020.

BY ADV. SRI.G.RAJAGOPAL

RESPONDENTS:
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1. TAHSILDAR, KUNNATHUNADU TALUK
   PERUMBAVOOR, ERNAKULAM-683101.

2. VILLAGE OFFICER
   PERUMBAVOOR VILLAGE, PERUMBAVOOR-683101.

3. TALUK SURVEYOR
   KUNNATHUNADU TALUK, PERUMBAVOOR-683101.

4. HEAD SURVEYOR
   KUNNATHUNADU TALUK, PERUMBAVOOR-683101.

R1-R4 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3376 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1	:	TRUE PHOTOCOPY OF THE TAX RECEIPT NO.18 DATED 15.03.1977 ISSUED BY THE SECOND RESPONDENT
EXHIBIT P2	:	TRUE PHOTOCOPY OF THE APPLICATION DATED 20.04.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT WHICH IS NUMBERED AS EC NO.1508/13
EXHIBIT P3	:	TRUE PHOTOCOPY OF THE PROCEEDINGS NO.K DIS.6132/13 C4 DATED 14.05.2014
EXHIBIT P4	:	TRUE PHOTOCOPY OF THE TAX RECEIPT NO.86 DATED 21.04.1989 ISSUED BY THE SECOND RESPONDENT
EXHIBIT P5	:	TRUE PHOTOCOPY OF THE BASIC TAX RECEIPT OF THE PROPERTY COMPRISED IN RESURVEY NUMBER 287/6 (OLD SURVEY NUMBER 121/8) OF PERUMBAVOOR VILLAGE

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 3376 of 2015

Dated this the 20th day of May, 2015

J U D G M E N T

The petitioner is concerned with two items of property in Perumbavoor Village, comprised in Block No.143 and Block No.18 respectively. The property comprised in Block No.143 having an extent of 2.1625 Ares, according to the petitioner, was comprised in old survey no. 117/2, which on re-survey has been alloted Survey No.62. The property in Block No.18, according to the petitioner, has an extent of 11.80 Ares, with old survey no. 121/8, allotted with re-survey no.287/6. The petitioner's grievance is that, when re-survey was conducted, the name of the petitioner and her son, who jointly owned the properties, as per allotment of shares in partition deed no.1853/1959 of SRO Perumbavoor, was omitted to be shown in the revenue records.

2. The petitioner hence moved an application for the correction of revenue records so as to include the name of the petitioner and her son as the owners of the respective

properties comprised in Block No.143 and Block No.18, as detailed herein above. The petitioner also relied on Ext.P1 tax receipt of the year 1977, in which both the aforesaid properties are seen included under Thandapper Account No.4642 and the petitioner has been shown as the owner of the property.

3. Ext.P3 order was passed by the Additional Tahsildar, wherein, on an enquiry it was found that the property comprised in survey no.62, having an extent of 15.97 Ares, belongs to the petitioner and her son. The petitioner's grievance is, insofar as the petitioner not being able to pay the tax even after Ext.P3 order was passed. It is also contented that there was absolutely no orders passed as to the ownership of the property in re-survey No.287/6, comprised in Block No.18; which too was the subject matter of Ext.P2 application.

4. The Government has filed a counter affidavit wherein it has been stated that the property having an extent of 16.25 Ares comprised in survey no.62 of Block

No.153 is seen mutated in the name of one Smt.Pappy Karthiyani Amma Alady House, under Thandapper Account No.5993, in which further mutation has also been effected on the basis of sale conducted by the said Pappy Karthiyani Amma. As to the order passed at Ext.P3, the 1st respondent, who has filed the counter affidavit, would contend that a detailed enquiry would be conducted and the facts ascertained in accordance with the revenue records and the documents produced by the petitioner. However, with respect to the property in Survey no.287/6 in Block No.18, the 1st respondent would contend that it is 'Thodu' and that the same stands vested with the Government.

5. The petitioner, however, would refute such contention on the ground that the extract of the revenue records produced at Ext.P5 merely indicate the property, comprised in re-survey no. 287/6, to be 'Nalathu Thodu', and as of now a physical verification would indicate that it is 'pakka' land, which already stood mutated in the name of the petitioner and her son; under Thandapper Account

No.4642 as per the tax receipt of the year 1977 produced at Ext.P1 as also the tax receipt of the year 1989 produced at Ext.P4.

6. Obviously, Ext.P3 has been passed after obtaining report from the concerned Village Officer. The 1st respondent though has filed a counter affidavit contending that the property in re-survey No.62 of Block No.143 belongs to one Pappy Karthiyani Amma; the petitioner's contention is that those are other properties which have been allotted to the said person, who is none other than the petitioner's mother; as per the very same partition deed. Obviously, a mistake has been committed, insofar as the petitioner claims ownership to the two items of property under Thandapper Account No.4642 whereas, the counter affidavit raises a suspicion as to the order passed at Ext.P3, on the basis of the property comprised in Thandapper Account No.5993. Definitely, the same would have to be looked at and the second item of property in re-survey No. 287/6 comprised in Block No.18 would also have to be

verified, if necessary by physical inspection, and orders are to be passed in accordance with law.

7. In such circumstance, the petitioner is directed to appear before the 1st respondent on **05.06.2015** with all supporting materials and also the copy of the Writ Petition, counter affidavit and reply affidavit filed before this Court. The 1st respondent shall, if necessary after conducting physical inspection, consider the application of the petitioner at Ext.P2 afresh and in accordance with law, and pass a speaking order, within a period of three months from the date of appearance of the petitioner.

The Writ Petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

//True Copy//

P.A. to Judge

jjj