

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 3428 of 2015 (C)

PETITIONER :

**M.MURUKAN, S/O MADASWAMY,AGED 46 YEARS,
RESIDING AT IKKA NAGAR, COLONY ROAD,
MUNNAR P.O, PIN-685 612**

BY ADV. SRI.N.M.VARGHESE

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY ,
REVENUE (R) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001**
- 2. THE DISTRICT COLLECTOR,
IDUKKI DISTRICT, COLLECTORATE KUYILIMALA,
IDUKKI. PIN-685 602**
- 3. THE TAHSILDAR,
DEVIKULAM TALUK, TALUK OFFICE, DEVIKULAM-685 613**
- 4. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA ASTATE ELECTRICITY BOARD,
ELECTRICAL MAJOR SECTION, CHITHIRAPURAM,
PALLIVASAL. PIN-685 618**
- 5. THE SPECIAL TAHSILDAR, MUNNAR,
OFFICE OF THE SPECIAL TAHSILDAR, IKKA NAGAR.
COLONY ROAD, MUNNAR, PIN- 685 612**

**R1 TO R3,R5 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT
R4 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: PHOTO COPY OF CERTIFICATE OF POSSESSION NO. K.DIS
2647/2001/B6 DATED 28.5.2001
- EXT.P2: PHOTOCOPY OF ELECTORAL IDENTITY CARD OF THE PETITIONER
- EXT.P3: PHOTOCOPY OF RELEVANT PAGES OF THE RATION CARD OF THE
FAMILY OF THE PETITIONER
- EXT.P4: PHOTOCOPY OF APPLICATION DATED 20.1.2001 SUBMITTED BY THE
PETITIONER
- EXT.P5: PHOTOCOPY OF CHEQUE DATED 6.9.2002 ISSUED TO THE
PETITIONER
- EXT.P6: PHOTOCOPY OF GOVERNMENT ORDER NO (MS) 394/08/REVENUE
DATED 20.11.2008 ISSUED BY THE 1ST RESPONDENT
- EXT.P7: PHOTOCOPY OF PATTa IN LA NO.4/2000 DATED 5.10.2000 ISSUED BY
THE 3RD RESPONDENT TAHSILDAR TO ONE SCARIAH ALEXANDER.
- EXT.P8: PHOTOCOPY OF BASIC TAX RECEIPT NO.36 IN THANDAPER NO.491
DATED 11.1.2002 ISSUED BY THE VILLAGE OFFICER KDH VILLAGE.
- EXT.P9: PHOTOCOPY OF PATTa LA NO.5/2000 DATED 5.10.2000 ISSUED BY THE
3RD RESPONDENT TAHSILDAR TO ONE VINDOKUMAR V.R
- EXT.P10: PHOTOCOPY OF BASIC TAX RECEIPT NO.35 ON THANAPER NO.490
DATED 11.1.2002
- EXT.P11: COPY OF JUDGMENT IN WPC NO.5348/2014 DATED 26.9.2014
- EXT.P12: COPY OF NOTICE OF THE 2ND RESPONDENT ALONG WITH THE
EXPLANATION OF THE PETITIONER SUBMITTED BEFORE THE 2ND
RESPONDENT ON 24.12.2014
- EXT.P13: COPY OF PROCEEDINGS NO.233/14 DATED 17.7.2014 OF THE 3RD
RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3428 of 2015

Dated this the 6th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

“i. Call for the entire records from the respondents pertaining to the issues raised in the writ petition.

ii. Issue any appropriate writ, order or direction against respondents 4 and 5 not to interfere with the peaceful possession, occupation and enjoyment of the house property of the petitioner extending 3 cents comprised in Sy.No. 843A of KDH Village; out of the terms of Ext.P11 judgment of this Honourable Court.

iii. Issue a writ of mandamus directing the respondents not to dispossess the petitioner from his house plot during the pendency of the proceedings.”

2. Heard the learned counsel for the petitioner, learned Government Pleader for respondents 1, 2, 3 and 5 and the learned Standing Counsel for the fourth respondent.

3. The case projected by the petitioner is that, Ext.P4 application for assignment of the property concerned has already been preferred before the 2nd respondent which has to be considered and dealt with in accordance with Ext.P6 G.O. In view

of the apprehended coercive proceedings the petitioner was constrained to approach this Court by filing W.P.(C) NO. 5348 of 2014 which was disposed of as per Ext.P11 judgment dated 26.9.2014 directing the 2nd respondent to consider the application for assignment and have it finalized as directed therein. It is stated that the proceedings are still to be finalized by the concerned respondent.

4. It was in the meanwhile that the Electricity Board has come to the property and has instructed the petitioner to effect vacant surrender stating that the property belongs to the Electricity Board, which is absolutely devoid of any merit or bonafides. It is also stated that the petitioner is in occupation of the property concerned for the past several years and there is absolutely no right or interest for the Electricity Board in connection with the property or the enjoyment by the petitioner.

5. The learned Standing Counsel for the Board submits that, no such instruction or advancement has been effected from the part of the Board as alleged by the petitioner in so far as the present property is concerned.

6. In any view of the matter, this Court does not propose to deal with the merits of the case. It is open for the 2nd respondent to consider all these aspects while dealing with Ext.P4 application. The writ petition is disposed of, as no further orders are warranted, in view of Ext.P11 judgment passed, but for observing that, if the proceedings are still to be finalized, an opportunity of hearing shall be granted to both the sides.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

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

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