

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. 3442 of 2015 (E)

PETITIONER(S):

1. **BABY KURIAN AGED 56 YEARS**
S/O.LATE KURIEN, CHERUKANDAMPARAMBIL THAZHCHAYIL
VENGAL MURI, KAVUMBHAGOM, VILLAGE
THIRUVALLA TALUK, PATHANAMTHITTA
REPRESENTED BY P.M.MATHEW, S/O.C.M.MATHEW
PULLUVELIL HOUSE, PERUMTHURUTHY P.O., KAVUMBHAGOM
VILLAGE, THIRUVALLA, TALUK
PATHANAMTHITTA.
2. **BINI KALPANA THOMAS AGED 53 YEARS**
NURSE BY PROFESSION, W/O.BABY KURIEN
CHERUKANDAMPARAMBIL THAZHCHAYIL, VENGAL MURI
KAVUMBHAGOM VILLAGE, THIRUVALLA TALUK
PATHANAMTHITTA, REPRESENTED BY P.M.MATHEW
S/O.C.M.MATHEW, PULLUVELIL HOUSE, PERUMTHURUTHY P.O.
KAVUMBHAGOM, VILLAGE, THIRUVALLA TALUK,
PATHANAMTHITTA.

BY ADVS.SRI.P.HARIDAS
SMT.SIKKY RAVISHANKAR

RESPONDENT(S):

1. **STATE OF KERALA**
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. **THE DISTRICT SURVEY SUPERINTENDENT, PATHANAMTHITTA-689 645.**
3. **THE DEPUTY DIRECTOR OF SURVEY, PATHANAMTHITTA-689 645.**
4. **THE REVENUE DIVISIONAL OFFICER**
THIRUVALLA, PATHANAMTHITTA-689 101.
5. **TAHSILDAR, TALUK OFFICE, THIRUVALLA,**
PATHANAMTHITTA-689 101.
6. **THE VILLAGE OFFICER, KAVUMBGHAGOM-689 103.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

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

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE RELEVANT PORTION OF SALE DEED NOS.1702/1994 OF SRO, THIRUVALLA.
- EXT.P2. TRUE COPY OF SALE DEED NOS.1740/1994 OF SRO, THIRUVALLA DATED 18.06.1994.
- EXT.P3. TRUE COPY OF SALE DEED NOS.2585/1995 OF SRO, THIRUVALLA DATED 23.08.1995.
- EXT.P4. TRUE COPY OF SALE DEED NOS. 586/1999 OF SRO, THIRUVALLA DATED 03.08.1999.
- EXT.P5. TRUE COPY OF THE TAX RECEIPT DATED 2/7/2012.
- EXT.P6. TRUE COPY OF THE TAX RECEIPT DATED 31/1/2014.
- EXT.P7. TRUE COPY OF THE NOTICE OF THE 6TH RESPONDENT DATED 12/12/2014.
- EXT.P8. TRUE COPY OF THE LETTER OF THE GOVERNMENT DATED 22/6/1989.
- EXT.P9. TRUE COPY OF THE PLAINT IN OS NO.764/2014 DATED 15/12/2014.
- EXT.P10. TRUE COPY OF THE MEASUREMENT PLAN RELATING TO PETITIONER'S PROPERTY
- EXT.P11. TRUE COPY OF LITHO PLAN RELATING TO PETITIONER'S PROPERTY.
- EXT.P12. TRUE COPY OF NOTICE OF 4TH RESPONDENT DATED 6/1/2015.
- EXT.P13. TRUE COPY OF APPLICATION CUM OBJECTION FILED BY THE PETITIONERS DATED 24/1/2015.
- EXT.P14. TRUE COPY OF THE PETITION FOR CORRECTING THE RESURVEY PLAN DATED 24/1/2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P. A. TO JUDGE

STK

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 3442 of 2015

Dated this the 11th day of February, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

- “(i) Call for records leading to Exhibit:-P-7 & P-12 and may quash the same by issuing a writ of certiorari;*
- (ii) Issue a writ in the nature of mandamus or any other appropriate writ commanding the respondents to stop all further proceedings in pursuant to Exhibit P-7 & P-11 till the disposal of Exhibit P-9 Civil suit.*
- (iii) Issue a writ in the nature of mandamus or any other appropriate writ commanding the respondents to consider and dispose of Exhibit P-14 in accordance with law and terms of Exhibit P-1 to P-4, P-9 & P-10.”*

2. The grievance appears to be that, the petitioners are being proceeded against under the firm belief that, the petitioners are possessing and enjoying part of the Government Land as 'puramboku'. The petitioners have been let known as per Ext.P12 notice dated 06.01.2015 issued by the 4th respondent, to be present for the hearing scheduled on 12.01.2015 with all the relevant records. The petitioners submitted Ext.P13 objection in response to Ext.P12 and as put forth by the learned counsel a hearing was held yesterday as well and the matter stands adjourned. The case of the

petitioners is that, they are having right and interest over the property having an extent of 113.50 cents of lands, as evident from Exts.P1 to P4 title deeds. After the re-survey, the extent came to be reduced as 1.05 Acres. Exts.P5 and P6 are Tax Receipts. It is stated that the property is well guarded by boundary walls. The learned counsel for the petitioners submits that, the petitioners have already moved the Civil Court by filing O.S. No.764/2014 for a prohibitory injunction. By virtue of the mandate under Section 80 of the CPC, steps are being taken to amend the suit as well. In the meanwhile, coercive proceedings are being pursued against the petitioner, which in turn is under challenge.

3. Heard the learned Government Pleader as well.

4. During the course of hearing, it is pointed out by the learned counsel for the petitioners that, the petitioners have already moved the Additional Tahsildar, Thiruvalla by way of Ext.P14 to correct the mistake in the resurvey.

5. This Court finds that disposal of Ext.P14, may help to redress the grievance of the petitioners, based on which the matter could be pursued by the 4th respondent/RDO. In the above circumstances, there will be a direction to the Additional Tahsildar, Thiruvalla to finalize Ext.P14, in accordance with law,

after affording an opportunity of hearing to the petitioners and other interested parties, if any. It shall be done, at the earliest, at any rate, within six weeks from the date of receipt of a copy of this judgment. The proceedings before the 4th respondent, forming the subject matter of Exts.P12 and P13 shall be finalized, in accordance with law, also considering the outcome of Ext.P14. So as to enable such exercise, the Additional Tahsildar, Thiruvalla, is *suo motu* impleaded in the party array as the Additional 7th respondent and the learned Government Pleader entered appearance on behalf of the said Additional respondent as well. The petitioners shall made available a copy of the judgment along with a copy of the writ petition and the I.A.s before the 4th respondent and also before the additional 7th respondent for further steps.

It is made clear that the said proceedings shall be subject to the outcome of the civil suit as well.

Sd/-
P.R. RAMACHANDRA MENON, JUDGE.