

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 6303 of 2013 (K)

PETITIONER(S) :

1. **K.A.HAMEED**
S/O. ABDULLA KUNHI, KUMBAN HOUSE, PARAPPADY
PUTHOOR VILLAGE, KASARGODE.
2. **K.P.MUHAMMAD KUNHI**
S/O. POKAR, KUMBAN HOUSE, PARAPPADY
PUTHOOR VILLAGE, KASARGODE.
3. **JAYANTHI P. SHETTY**
W/O. H. PADMANABHA SHETTY, KODIANMA, MADAVA P.O.
KUMBALA (VIA), CHILAMBADY, KASARGODE.

BY SENIOR ADVOCATE SRI.M.RAMESH CHANDER
BY ADVS.SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENT(S) :

1. **THE DISTRICT COLLECTOR**
COLLECTORATE, KASARGODE-671121.
2. **THE THASILDAR**
TALUK OFFICE, KASARGODE-671121.
3. **THE VILLAGE OFFICER**
KUDLU GROUP VILLAGE OFFICE
KASARAGOD DISTRICT-671321.

***ADDL. R4 IMPEADED**

***ADDL.R4. THE EXECUTIVE ENGINEER**
JILLA PANCHAYATH, KASARAGOD - 671 121.

***IS IMPEADED AS PER ORDER DATED 20.05.2015 IN IA.6265/2015.**

R1 TO R3 & ADDL. R4 BY ADDL. ADVOCATE GENERAL SRI.K.A.JALEEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1- TRUE COPY OF THE JUDGMENT I WPC 18780/2011 DATED 12.7.2011.
- EXHIBIT P2- PHOTOSTAT COPY OF THE ORDER OF THE THSILDAR DATED 13-09-2011.
- EXHIBIT P3- PHOTOSTAT COPY OF THE REGISTERED DEED DATED 20.12.2011.
- EXHIBIT P4- PHOTOSTAT COPIES OF ENCUMBRANCE CERTIFICATE DATED 25.1.2013.
- EXHIBIT P5- PHOTOSTAT COPIES OF ENCUMBRANCE CERTIFICATE DATED 25.1.2013.
- EXHIBIT P6- PHOTOSTAT COPY OF THE RECEIPT ISSUED FROM THE VILLAGE FOR RECEIPT OF TAX ISSUED BY THE 3RD RESPONDENT IN FAVOUR OF THE PETITIONER.
- EXHIBIT P7- PHOTOSTAT COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE 3RD RESPONDENT WITH RESPECT TO PROPERTY IN RS 218/11 IN OLD 246/11.
- EXHIBIT P8- PHOTOSTAT COPY OF THE LAWYER NOTICE DATED 23-01-2013.
- EXHIBIT P9- PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 2-11-12.
- EXHIBIT P10- PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT.
- EXHIBIT P11- PHOTOSTAT COPY OF THE REPRESENTATION DATED 14.11.2014 TO THE EXECUTIVE ENGINEER, KASARAGODE.
- EXHIBIT P12- PHOTOSTAT COPY OF THE TENDER NOTICE NO. A4 629/13 DATED 7.5.2015 ISSUED BY THE EXECUTIVE ENGINEER.

RESPONDENTS' EXHIBITS :

- EXHIBIT R1(a) COPY OF SUB DIVISION SKETCH PREPARED BY THE DISTRICT SURVEY SUPERINTENDENT.
- EXHIBIT R1(b) COPY OF SUB DIVISION STATEMENT PREPARED BY THE DISTRICT SURVEY SUPERINTENDENT.

//TRUE COPY//

P.S. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 6303 of 2013

Dated this the 20th day of November, 2015

JUDGMENT

The petitioners approached this Court on account of non-acceptance of basic tax in respect of the property comprised in Re-Survey No.218/11(Old Survey No.246/1) of Puthoor Village. As per Ext.P9 Order, the Tahsildar, communicated to the District Collector as follows :

“The enquiry Report of the Village Officer, Kudlu reveals that as per Revenue Records and extent of 48.91 acres of land comprised in R.S.No.218/11 was wrongly sub divided in the name of Mahinga Banda, W/o.Kovkunja, Thimmanna Banda in thandaper No.2923. The above land in question was purchased by the petitioners as per document No.6302/11. The land in R.S.No.218/11 was wrongly sub divided by including old R.S.Nos.246/1 and 246/2 out of which 246/2 was

government puramboke as per Revenue Records. Based on the report of the Village Officer, Kudlu, the Re-survey Authorities when rectified the matter an extent of 0.2866 hectare of land was transferred to R.S.No.218/12 and it stands registered as puramboke grazing ground. The extent of land limited to 218/11 is 0.2025 hectare. Therefore, the basic tax for the said land 0.82 acre could not be accepted from the petitioner. This fact is reported for necessary actions.”

2. The petitioners challenge the above communication of Tahsildar. According to the petitioners, the above land is a private property exclusively belongs to them. Therefore, Ext.P9 is illegal.

3. In the counter affidavit filed on behalf of the 1st respondent, it is stated that the above land is a Government property. A sketch is also produced showing the lie of the property.

4. Essentially, the question espoused by the petitioners is regarding the identity of the property claimed by them. Therefore, this Court is of the view that the

Tahsildar shall identify the petitioners property in their presence, within three months after receipt of a copy of this judgment and issue sketch to them. Thereafter, based on the sketch, basic tax shall be accepted. The Tahsildar shall also give notice to the petitioners before taking final decision.

The writ petition is disposed of as above.

Sd/-

**A. MUHAMED MUSTAQUE
JUDGE**

bpr