

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3681 of 2015 (I)

PETITIONER(S):

M.P.JOB A
MUKKADAYIL HOUSE, PALATHURUTH,
FATHIMA CHURCH ROAD, COCHIN.

BY ADVS.SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENT(S):

1. THE DISTRICT COLLECTOR
COLLECTORATE, ERNAKULAM- 682 030
2. THE REVENUE DIVISIONAL OFFICER
FORT KOCHI, ERNAKULAM-682 002
3. THE DISTRICT REGISTRAR,
OFFICE OF THE DISTRICT REGISTRAR,
ERNAKULAM- 682 011
4. THE INSPECTOR GENERAL OF REGISTRATION
C/O.THE INSPECTOR GENERAL
THIRUVANANTHAPURAM 695 001
5. PATRIC JOY
PURAKKAT HOUSE, KATHRIKKADAVU, ELAMULAM
ERNAKULAM DISTRICT- 682 020.

R1-4 BY SR. GOVERNMENT PLEADER SRI. MUHAMMED SHAFILM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3681 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:TRUE PHOTOCOPY OF THE APPLIATION DATED 10.09.2001

P2:TRUE PHOTOCOPY OF THE SALE DEED BEARING NO.2546/2010 FROM THE OFFICE OF THE 3RD RESPONDENT

P3:TRUE PHOTOCOPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT

P4:TRUE PHOTOCOPY OF THE COMMUNICATION BEARING NO. INS (4) 2779/13 DATED 25.11.2013

P5:TRUE PHOTOCOPY OF THE COMPLAINT DATED 05.12.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

P6:TRUE PHOTOCOPY OF THE NOTICE BEARING NO. F 28/14 DATED 22.01.2014 ISSUED BY THE 2ND RESPONDENT

P7:TRUE PHOTOCOPY OF THE HEARING NOTICE BEARING NO.F 28/14 DATED 17.02.2014 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE.

Sou.

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3681 of 2015

Dated this the 5th day of February, 2015

JUDGMENT

The petitioner is the owner of two items of properties in Sy.Nos. 418/1 and 419/2 of Elamkulam Village which is situated on the eastern side of a canal by name 'Puncha thodu'. Along the eastern side of the canal and western side of the petitioner's property a road was intended to be developed with the initiative of GCDA. In the course of further proceedings necessary extent of land was surrendered/gifted by all concerned including the petitioner and also the 5th respondent herein in the year 2001. The road was formed accordingly and the same is being made use of by the general public including the petitioner. But later the petitioner came to know that, the 5th respondent herein sold his property including the portion which was surrendered by him as per Ext.P1 and as per Ext.P2 sale deed bearing No. 2546/2010, to a third party. This made the petitioner to file Ext.P3 complaint pursuant to which Ext.P4 proceedings have been issued by the third respondent on 25.11.2013.

2. As per the said proceeding the third respondent has clearly opined that the enquiry revealed that the property conveyed by the 5th respondent as per Ext.P2 was also included as part of the property, which was surrendered/gifted in favour of the Government. It is also mentioned therein that, since a document has already been registered, the said respondent does not have any power or authority to have it cancelled, revoked or modified in any manner and that, the petitioner could pursue the matter further by approaching the District Collector, invoking the power and procedure under Section 83A(2) of the Registration (Kerala Amendment) Act, 2012. It was accordingly, that the petitioner moved the 1st respondent by filing Ext.P5.

3. Pursuant to Ext.P5, a notice of hearing was issued to all concerned as evident from Ext.P6. The said notice was issued by the 2nd respondent referring to the endorsement made by the 1st respondent on the complaint preferred by the petitioner. The petitioner appeared before the 2nd respondent, when it adjourned to another day and Ext.P7 notice was issued to the petitioner. This time also, the petitioner and also the 5th respondent

appeared before the 2nd respondent. But the proceedings are still to be finalized and hence the writ petition.

4. Heard the learned Government Pleader as well.

5. This Court does not find it necessary to go into the merits of the case or to issue notice to the 5th respondent for the time being. The writ petition is disposed of, directing the 2nd respondent to consider and pass appropriate orders on the complaint preferred by the petitioner after hearing the petitioner, 5th respondent and also the other interested parties, if any, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment.

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.**