

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 3749 of 2015 (P)

PETITIONER(S):

**P.G.VIJAYAKUMAR AGED 62 YEARS
S/O.GOPALA PILLAI, PINNATTUPUTHEN VEEDU, IVERKALA
PATHANAPURAM P.O., KOLLAM.**

**BY ADVS.SRI.B.MOHANLAL
SRI.K.PANIL KUMAR (SASTHAMCOTTA)**

RESPONDENT(S):

- 1. THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD
REPRESENTED BY ITS SECRETARY, VANCHIYOOR P.O.
THIRUVANANTHAPURAM-695014.**
- 2. THE VICE CHAIRMAN
THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD
VANCHIYOOR P.O., THIRUVANANTHAPURAM-695014.**
- 3. THE DISTRICT COLLECTOR
COLLECTORATE, CUTCHERY P.O., KOLLAM-691013.**
- 4. THE DEPUTY TAHSILDAR (RR)
TALUK OFFICE, KUNNATHOOR P.O., SASTHAMCOTTAH
KOLLAM-690520.**
- 5. THE VILLAGE OFFICER
KUNNATHOOR VILLAGE, KUNNATHOOR P.O., KOLLAM-690520.**

**R3 TO R5 BY GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA
R1 & R2 BY SRI.TOM K.THOMAS, SC KERALA KHADI & VILLAGE IN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE APPLICATION DT.18-9-14 SUBMITTED BY THE PETITIONER BEFORE R2.**
- EXT.P2 : TRUE COPY OF THE JUDGMENT DT.10-10-14 IN WPC 26336/14 OF THIS HON'BLE COURT.**
- EXT.P3 : TRUE COPY OF THE ORDER NO.B2-10226/14 DT.25-10-14 ISSUED BY R4 THROUGH THE R5.**
- EXT.P4 : TRUE COPY OF THE APPLICATION DT.5-11-14 SUBMITTED BY THE PETITIONER BEFORE R3.**
- EXT.P5 : TRUE COPY OF THE ORDER NO.4978/14 DT.27-10-14 ISSUED BY THE R5 TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO. 3749 OF 2015 (P)

Dated this the 27th day of February, 2015

J U D G M E N T

The challenge in this writ petition is against Ext.P3 revenue recovery proceedings and Ext.P5 order. By Ext.P5 order, the request of the petitioner, for issuance of a possession certificate in respect of the property owned by him, has been rejected by the 5th respondent. On a perusal of Ext.P5 order, I find that the sole reason given by the 5th respondent for denying the possession certificate is the pendency of certain proceedings against the petitioner and his property, in terms of the SARFAESI Act.

2. The petitioner would point out that by virtue of the decisions of this Court in **Haseena v. Thahasildar - 2010 (3) KLT 278** and **Joseph Kurian v. Village Officer - 2010 (3) KLT 251**, it has been held that merely on the ground that the property was the subject matter of a mortgage the respondents could not refuse permission to the owner of a property to pay land tax in respect of the property in question. On a perusal of Ext.P5 order, it is apparent that the 5th respondent has not taken note of the aforesaid decisions of this court. Accordingly, I quash Ext.P5 order and direct the 5th respondent

to consider the request for issuance of possession certificate, and if on an enquiry conducted by the 5th respondent it is found that the petitioner is, in fact, the owner of the property in question, and in possession thereof, then the possession certificate shall be duly issued to the petitioner. I make it clear that the fact of pendency of any proceedings against the petitioner can be mentioned in the certificate that is issued to the petitioner by the 5th respondent. The 5th respondent shall pass orders as directed in this judgment within a period of two weeks from the date of receipt of a copy of this judgment, after hearing the petitioner.

**Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE**

jjj