

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No.3998 of 2015 (Y)

PETITIONERS:

1. POOTHANARI ALIBAPPU,S/O.ALAVIKUTTY HAJI,
POOTHANARI HOUSE,PULPATTA AMSOM,
POOKOLATHUR DESOM,P.O.PULPATTA,MALAPPURAM.
2. KODITHODIKA MARIYAKUTTY,W/O.POOTHANARI ALIBAPPU,
POOTHANARI HOUSE,PULPATTA AMSOM,
POOKOLATHUR DESOM,P.O.PULPATTA,
MALAPPURAM.
3. MR.ABOOBACKER HAJI,S/O.ALIKUTTY HAJI,
H.NO.3/102,THRIKKALANGOTTU,ERANAD.
4. SMT.NAFEESA,W/O.MR.ABOOBACKER HAJI,
H.NO.3/102,THRIKKALANGOTTU,ERANAD.

BY ADV.SMT.K.K.RAZIA

RESPONDENT:

**THE ADDITIONAL TAHSILDAR,
ERANAD TALUK OFFICE, MALAPPURAM,
MANJERRY P.O-676505.**

BY GOVT. PLEADER SRI.K.C.VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.3998 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1:TRUE COPY OF THE REPORT OF THE TALUK SURVEYOR.

**EXHIBIT-P2:TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE
OFFICER DATED 15.11.2012.**

**EXHIBIT-P3:TRUE COPY OF THE NOTICE DATED 11.07.2014 ISSUED BY THE
RESPONDENT.**

EXHIBIT-P4:A TRUE COPY OF THE PROCEEDINGS DATED 1.08.2014.

EXHIBIT-P5:A TRUE COPY OF THE TAX RECEIPT.

**EXHIBIT-P6:A TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE
MANJERRY MUNICIPALITY.**

EXHIBIT-P7:A TRUE COPY OF THE PROCEEDINGS DATED 31.12.2014

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3998 of 2015

Dated this the 9th day of February, 2015

JUDGMENT

Petitioner is the owner of the property having an extent of 10.63 Ares of land in Sy. No.96/5 of Manjeri Village and is enjoying the same, also remitting the basic tax as evident from Ext.P2. The ownership rights are also evident from Ext.P6 certificate issued by the concerned local authority. It is stated that, on a fine morning the mutation effected in respect of the property, in terms of the Transfer of Registry Rules, came to be cancelled by the 1st respondent as per Ext.P7 order dated 31.12.2014, absolutely without any power, jurisdiction or authority and without affording an opportunity of hearing to the petitioner. This made the petitioner to approach this Court by filing this writ petition.

2. The learned counsel for the petitioner submits that, if at all any mistake is there with regard to the mutation, then the competent authority to have the same cancelled is none other than the District Collector. This Court does not propose to go into the facts and figures or the position as aforesaid. On going

through the contents of Ext.P7, it is seen that no notice was ever issued by the 1st respondent to the petitioner. Even if Ext.P7 is sustainable in law, such a course could have been pursued only after issuing a notice of hearing to the petitioner. There is violation of fundamental Rule of 'audi alteram partem'.

In the said circumstances, this Court does not require a second thought to hold that Ext.P7 does not stand the test of law. It is set aside accordingly. The 1st respondent is required to reconsider the matter after issuing a fresh notice to the petitioner and after affording an opportunity of hearing to the petitioner in this regard, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 1st respondent, for further steps.

The writ petition is disposed of.

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

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