

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4479 of 2015 (H)

PETITIONER:

**SAMEER, AGED 35, S/O. UMMAR,
RESIDING AT THOTTI VALAPPIL HOUSE,
P.O.KANMANAM, VARANAKKARA DESOM,
TIRUR TALUK, MALAPURAM DISTRICT - 676 551
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
MR.MOIDEEN, AGED 61, S/O. KUNHIMOIDEENKUTTY,
RESIDING AT CHATHANCHERI HOUSE, VAIROMKODE P.O.,
THIRUNAVAYA, TIRUR TALUK, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.THIIYANNOOR RAMAKRISHNAN
SRI.ARUN KUMAR.P
SMT.AMBIKA RADHAKRISHNAN**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
MALAPPURAM, PIN - 676 001.**
- 2. VILLAGE OFFICER,
VALAVANNUR VILLAGE OFFICE,
TIRUR TALUK, MALAPPURAM DISTRICT - 676 551.**
- 3. REVENUE DIVISIONAL OFFICER,
TIRUR TALUK, MALAPPURAM DISTRICT - 676 551.**
- 4. THAHSILDAR, TIRUR TALUK,
MALAPPURAM DISTRICT - 676 551.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - TRUE COPY OF THE POWR OF ATTORNEY EXECUTED BY THE PETITIONER IN FAVOUR OF HIS AGENT MR.MOIDEEN.
- P2- TRUE COPY OF THE RECEIPT EVIDENCING PAYMENT OF FEES FOR THE APPLICATION TO EFFECT MUTATION OF PETITIONER'S NAME.
- P2(A) - ENGLISH TRANSLATION OF EXT. P2.
- P3 - TRUE COPY OF THE APPLICATION MADE BY THE PETITIONER TO THE 1ST RESPONDENT DISTRICT COLLECTOR.
- P3(A) - ENGLISH TRANSLATION OF EXT. P3.
- P4- TRUE COPY OF THE LETTER OF THE 1ST RESPONDENT DATED 27.9.2014 TO THE PETITIONER.
- P4(A) - ENGLISH TRANSLATION OF EXT. P4.
- P5 - TRUE COPY OF THE CERTIFICATE DATED 24.11.2014 BEARING NO. 2393/2014 ISSUED BY THE 2ND RESPONDENT VILLAGE OFFICER TO THE PETITIONER REJECTING REQUEST FOR PAYMENT OF LAND TAX.
- P5(A) - ENGLISH TRANSLATION OF EXT P5.
- P6 - TRUE COPY OF THE INTIMATION OF THE 2ND RESPONDENT TO THE PETITIONER DATED 05.12.2014 BEARING NO. 256/14 REJECTING ISSUANCE OF POSSESSION CERTIFICATE.
- P6(A) - ENGLISH TRANSLATION OF EXT. P6.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4479 of 2015

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner is the power of attorney holder of the owner of the property forming the subject matter of the application preferred for effecting mutation before the 2nd respondent. After considering the claim put up by the petitioner, the request was turned down as per Ext.P5 dated 24.11.2014 and also vide Ext.P6 dated 05.12.2014, with regard to the mutation to be effected, tax to be remitted and issuance of Possession Certificate, stating that the request could be acceded to, only subject to the restoration of the land under the Kerala Land Utilisation order.

2. According to the 2nd respondent/Village Officer, the nature of the land was changed in contravention of the provisions of Kerala Land Utilisation order and hence Exts.P5 and P6 were issued. This made the petitioner to approach this Court challenging the said proceedings and for appropriate reliefs.

3. Heard the learned Government Pleader appearing for the

respondents as well.

4. Unlike the provisions of Kerala Conservation of Paddy Land and Wet Land Act, 2008, no power is vested with the authorities like the respondents to order restoration of land, if at all any violation of Kerala Land Utilisation order is effected. Whether the violation was effected at the hands of the petitioner or the predecessor-in-title is not clear and as such, if at all violation is there, it is open for the concerned respondent to take an appropriate remedial action, if any, in accordance with law. This cannot be a ground to deny the mutation to be effected in terms of the Transfer of Registry Rules and to accept the tax in terms of the Kerala Land Tax Act.

5. In the said circumstances, Exts.P5&P6 are set aside. There will be a direction to the 1st respondent to reconsider the application preferred by the petitioner in terms of the above provisions of law and to effect mutation, accept the tax as and when the same is tendered and also issue Possession Certificate, subject to satisfaction of other requirements, in accordance with law. This shall be done at the earliest, at any rate, within 'one

month' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the first respondent, for further steps.

The writ petition is disposed of.

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

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