

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN
WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C) .No. 8734 of 2012 (N)

PETITIONER:

MUHAMMED MUSTHAF
S/O.UNNAINKUTTY KEEZHADAYIL HOUSE, EZHUVANTHALA AMSOM
IRRUMPALASSERY DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT

BY ADV. SRI.P.JAYARAM

RESPONDENTS:

1. DISTRICT COLLECTOR, PALAKKAD- 678001
 2. THE DEPUTY DIRECTOR OF RE-SURVEYS
PALAKKAD-678 001
 3. THE ASSISTANT DIRECTOR OF RE-SURVEYS
PALAKKAD 678 001
 4. THE SUPERINTENDENT OF SURVEY AND LAND RECORDS
PATTAMBI 679 303
 5. THE TAHSILDAR
OTTAPALAM 679101
 6. THE VILLAGE OFFICER
CHERPULASSERY 679 503
 - * 7. SHABANA,
W/O.HARRIS, ERAKKAD HOUSE, VENGOLA WEST 683556, KUNNATHUNADU
TALUK ERNAKULAM DISTRICT [DELETED]
[R7 IS DELETED AS PER ORDER DATED 02.07.2015
IN IA 4118/14]
 8. M.M.MAKKAR
S/O.MEERAKUTTY, MUKKANNIYIL HOUSE, KAVUNKARA KARA,
MUVATTUPUZHA MARKET P.O 686 673, MUVATTUPUZHA,
ERNAKULAM DISTRICT .
- R8 BY ADV. SRI.ESM.KABEER
R8 BY ADV. SMT.P.DEEPA MOHAN
R1 -R 6 BY ADV. GOVERNMENT PLEADER SRI.MANOJ.P.KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PTO

APPENDIX

WP(C).No. 8734 of 2012 (N)

PETITIONER'S EXHIBITS

- EXHIBIT P1: TRUE COPY OF SALE DEED NO.2147 OF 1994,S.R.O.
CHERPULASSERY
- EXHIBIT P1(a):TRUE COPY OF SALE DEED NO.2143 OF 1994,S.R.O.
CHERPULASSERY.
- EXHIBIT P1(b):TRUE COPY OF SALE DEED NO.2149 OF 1994,S.R.O.
CHERPULASSERY.
- EXHIBIT P1(C) TRUE COPY OF TAX RECEIPT DATED 20/4/2005 ISSUED TO THE
PETITIONER FROM VILLAGE OFFICE,CHERPULSSERY.
- EXHIBIT P2: TRUE COPY OF COMPLAINT DATED 18/01/2007 BEFORE THE SIT
RESPONDENT
- EXHIBIT P2(a):TRUE COPY OF THE LETTER DATED 4/7/2007 FROM DISTRICT
COLLECTOR, PALAKKAD TO THE PETITIONER.
- EXHIBIT P3: TRUE COPY OF THE COMPLAINT/APPEAL DATED 4/11/2009
BEFORE THE 2ND RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE SURVEY PLAN APPROVED BY RE-SURVEY
SUPERINTENDENT, PATTAMBI.
- EXHIBIT P5: TRUE COPY OF THE RE-SURVEY PLAN SPLITTING RE.SURVEY
NUMBER 130/2 INTO TWO SUB DIVISIONS.
- EXHIBIT P6: TRUE COPY OF THE NOTICE SENT FROM ASSISTANT DIRECTOR OF
SURVEY TO 3RD RESPONDENT.
- EXHIBIT P6(a): TRUE COPY OF LETTER SENT BY ASISTANT DIRECTOR SURVEYS
TO DEPUTY DIRECTOR OF SURVEY.
- EXHIBIT P7: TRUE COPY OF THE REPORT DATED 17/5/2010 SENT BY 3RD
RESPONDENT TO ASSISTANT DIRECTOR RESURVEY,PALAKKAD
- EXHIBIT P8: TRUE COPY OF THE COMPLAINT DATED 3/3/2010 FILED BY THE
PETITIONER BEFORE DISTRICT COLLECTOR, PALAKKAD.
- EXHIBIT P9: TRUE COPY OF THE COMPLAINT DATED 30/6/2011 FILED BY THE
PETITIONER BEFORE DISTRICT COLLECTOR, PALAKKAD.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A. to Judge

sas

K. VINOD CHANDRAN, J.

W.P.(C) No.8734 of 2012-N

Dated this the 15th day of July, 2015.

JUDGMENT

The petitioner is said to have absolute ownership and possession of a property measuring 2.72 hectares in Block No.43 Resurvey No.130/2 of Cherpulassery Village. The petitioner had also been remitting basic tax for the property as is evidenced by Ext.P1(c). The said tax has been remitted in pursuance to a mutation effected on the basis of Ext.P1 Sale Deed, by which the petitioner purchased the property. A resurvey is said to have been conducted, in which also it was clearly found that the 2.72 hectares in Resurvey No.130/2 of Cherpulassery Village was in possession of the petitioner.

2. However, in a Survey Adalath, without notice to the petitioner, a portion of the property is said to have been mutated in favour of one Smt.Shabana and the 8th respondent. The petitioner had filed an appeal from such order at Ext.P9.

The petitioner's prayer as of now is only for consideration of Ext.P9, after looking into the various documents, which are relevant in the matter, being the records of the Office of the Surveyor as also the 4th respondent.

2. The learned Government Pleader submits that actually a portion of the property is in possession of others. In any event, since the prayer is confined to the consideration of Ext.P9 appeal, there shall be a direction to the 1st respondent to consider the appeal, after affording an opportunity of hearing to the petitioner as also Smt. Shabana and the 8th respondent, who shall be issued with notice by the authority. The petitioner shall produce a certified copy of this judgment before the first respondent within two weeks from today. The first respondent shall, after getting a report from the Village Officer as also after issuing notice to Smt. Shabana and the 8th respondent, consider the matter in accordance with law, if necessary after conducting a survey within a period of six months.

The writ petition is disposed of.

It is made clear that, this Court has not made any observation on the merits of the case.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

sp