

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 5012 of 2015 (B)

PETITIONER(S):

**E.A. JAYAKUMAR, AGED 50 YEARS,
S/O.AYYAPPAN PILLAI, RESIDING AT 50/114 C,
VISHNU VIHAR, ELAMAKKARA, KOCHI-682 041.**

**BY SRI.M.RAMESH CHANDER, SENIOR ADVOCATE.
ADVS. SRI.ANEESH JOSEPH,
SMT.DENNIS VARGHESE.**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR, ERNAKULAM-682 001.**
- 2. TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM DISTRICT-682 001.**
- 3. ADDITIONAL TAHSILDAR,
KANAYANNUR TALUK,
ERNAKULAM DISTRICT-682 001.**
- 4. VILLAGE OFFICER, EDAPPILLY NORTH VILLAGE,
EDAPPILLY-682 024.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : PHOTOSTAT COPY OF THE JUDGMENT IN WP(C).NO.33442/2005
DATED 25-07-2008.
- EXT P2 : PHOTOSTAT COPY OF THE RECEIPT EVIDENCING TAX PAID BY
THE PETITIONER ON 08-05-2014.
- EXT P3 : PHOTOSTAT COPY OF THE ORDER ISSUED BY THE DEBT RECOVERY
TRIBUNAL DATED 02-07-2014.
- EXT P4 : THE PHOTOSTAT COPY OF THE ENCUMBRANCE CERTIFICATE WHICH
WOULD SHOW THAT THE ATTACHMENT HAS BEEN LIFTED.
- EXT P5 : PHOTOSTAT COPY OF THE JUDGMENT WP(C).NO.25013/2013
DATED 23-10-2013.
- EXT P6 : PHOTOSTAT COPY OF THE REPRESENTATION BEFORE THE
1ST RESPONDENT ON 25-09-2014 WITHOUT THE ENCLOSURES
THEREIN.
- EXT P7 : PHOTOSTAT COPY OF THE ACKNOWLEDGMENT ISSUED BY
THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.5012 OF 2015
.....

Dated this the 9th April, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"i) issue a writ of mandamus or any other appropriate writ order or direction directing or compelling the respondents herein to effect mutation of the property in Sy.No.87/5B of Edappilly North Village in favour of the petitioner.

ii) and pass any other order which this Honourable Court may deem fit and proper under the circumstance of the case.."

2. This is the second round of litigation that the petitioner is constrained to pursue before this Court. Earlier, the petitioner had approached this Court by filing W.P.(C)No.33442 of 2005, which was disposed of as per Ext.P1 judgment, whereby appropriate directions were given to the authorities of the Government to have the grievance redressed . Pursuant to the said direction, land tax was accepted from the petitioner. But mutation in terms of Transfer of Registry Rules is still to be effected. The petitioner has filed Ext.P6 representation before

the first respondent/District Collector pointing out the facts and figures. The delay in finalising the matter made the petitioner to approach this Court again by way of this writ petition.

3. Heard the learned Government Pleader as well.

4. During the course of hearing, it is brought to the notice of this Court by the learned Counsel for the petitioner, that the adverse circumstance, stated from the part of the Revenue Department was with reference to the pendency of a civil suit and attachment ordered therein, which is no more relevant, in so far as the order of attachment has already been lifted. It is also pointed out that the attachment cannot bar the way of the concerned authority in effecting mutation by virtue of the law declared by this Court as per the decision in **Joseph Kurian vs. Village Officer (2010 (3) KLT 251)**. Pendency of civil suit also cannot place any hurdle as far as the position has been clarified as per the decision in **Vijayarajan vs. Tahsildar** [2013 (2) KLT SN. 93) (Case No.119)].

5. In the said circumstance, there will be a direction to the first respondent/District Collector to consider Ext.P6 and pass appropriate orders in the light of the decisions as referred to

above, which shall be done at the earliest, at any rate, within six weeks from the date of receipt of a copy of this judgment, after affording an opportunity of hearing to the petitioner. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent/District Collector for further steps.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

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