

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 5178 of 2015 (V)

PETITIONERS:-

- 1. JIBI BAHULEYAN, AGED 31 YEARS,
S/O.GEETHA BAHULEYAN, PUTHUKKADANS HOUSE,
KADUNGALLOOR VILLAGE & KARA, PARAVUR TALUK.**
- 2. ANJU M.S., AGED 29 YEARS,
W/O.JIBI BAHULEYAN, PUTHUKKADANS HOUSE,
KADUNGALLOOR VILLAGE & KARA, PARAVUR TALUK.**

**BY ADVS.SRI.DINESH R.SHENOY,
SMT.K.K.JYOTHILAKSHMY,
SRI.SANIL JOSE,
SRI.A.JOSEPH GEORGE.**

RESPONDENTS:-

- 1. THE VILLAGE OFFICER,
KADUNGALLOOR VILLAGE,
KADUNGALLOOR - 683 110.**
- 2. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE, NORTH PARAVUR, PIN - 683 513.**

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

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE PHOTOCOPY OF SALE DEED NO.1207/2014, ALANGAD SRO DATED 12.03.2014.
- EXHIBIT P2. TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO.5124111 DATED 20.04.2014 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P3. TRUE PHOTOCOPY OF NO OBJECTION CERTIFICATE NO.A2-97/13-14 DATED 06.06.2013, KADUNGALLOOR GRAMA PANCHAYATH.
- EXHIBIT P4. TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO.5249441 DATED 22.05.2013.
- EXHIBIT P5. TRUE PHOTOCOPY OF LETTER K-DIS-22251/14/D2 DATED 24.12.2014 ISSUED BY THE SECOND RESPONDENT.
- EXHIBIT P6. TRUE PHOTOCOPY OF THE JUDGMENT DATED 06.04.2009 IN WP(C)NO.11374/2009, HIGH COURT OF KERALA.
- EXHIBIT P7. TRUE PHOTOCOPY OF REPORT DATED 28.04.2009 BY THE FIRST RESPONDENT.
- EXHIBIT P8. TRUE PHOTOCOPY OF PROCEEDINGS NO.D1-2372/09 DATED 04.05.2009 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P9. TRUE PHOTOCOPY OF LETTER NO.K-2670/09 DATED 01.06.2009 ISSUED BY THE REVENUE DIVISIONAL OFFICER, KOCHI.
- EXHIBIT P10. TRUE PHOTOCOPY OF JUDGMENT DATED 02.04.2013 IN WP(C)NO.9172/2013, HIGH COURT OF KERALA.
- EXHIBIT P11. TRUE PHOTOCOPY OF PROCEEDINGS OF THE ADDL. TAHSILDAR, NORTH PARAVUR NO.D1-6201/2013 DATED 06.05.2013.
- EXHIBIT P12. TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO.5180476 DATED 18.12.2013, VILLAGE OFFICER, KADUNGALLOOR VILLAGE.
- EXHIBIT P13. TRUE PHOTOCOPY OF POSSESSION CERTIFICATE DATED 20.06.2013 ISSUED BY THE FIRST RESPONDENT TO PREMNATH.
- EXHIBIT P14. TRUE PHOTOCOPY OF LOCATION SKETCH DATED 20.06.2013 ISSUED BY THE FIRST RESPONDENT TO PREMNATH.

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- EXHIBIT P15. TRUE PHOTOCOPY OF OWNERSHIP CERTIFICATE NO.A8/10345 DATED 17.12.2013.
- EXHIBIT P16. TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO.4732357 DATED 17.05.2013.
- EXHIBIT P17. TRUE PHOTOCOPY OF NO OBJECTION CERTIFICATE NO.A2-93/13-14 DATED 06.06.2013 ISSUED TO ABDUL VAHID BY THE SECRETARY,KADUNGALLOR GRAMA PANCHAYATH.
- EXHIBIT P18. TRUE PHOTOCOPY OF BUILDING PERMIT NO.BA 101/13-14 DATED 15.05.2014, KADUNGALLOR GRAMA PANCHAYATH.
- EXHIBIT P19. TRUE PHOTOCOPY OF POSSESSION CERTIFICATE NO.2015/14(B) DATED 26.02.2014, KADUNGALLOOR VILLAGE OFFICE.
- EXHIBIT P20. TRUE PHOTOCOPY OF LOCATION SKETCH NO.C NO.2015/14(A) DATED 26.02.2014 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P21. TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO.4680538 DATED 29.02.2014 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P22. PHOTOGRAPHS OF THE HOUSES CONSTRUCTED BY SHRI.PREMNATH, BY SMT.THASNIM AND BY SHRI.ABDUL VAHID, TOGETHER WITH THE LANDS SURROUNDING THE SAME.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 5178 of 2015

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Dated, this the 27th day of February, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers :

A) A writ of certiorari or any other appropriate writ, order or direction, quashing Ext. P5 order 24.12.2014 issued by the second respondent.

B) A writ of mandamus or any other appropriate writ order of direction, directing the respondents to issue Location Certificate and Possession Certificate in respect of Exhibit P1 property to the petitioners forthwith, so as to enable them to apply for and obtain Building Permit and construct their residential house therein, as already allowed in the case of the nearby landholders, Premnath, Vahid and Thasnim, within a time frame as fixed by this Honourable Court.

C) Grant such other reliefs as are deemed fit and proper in the facts and the circumstances of the case.

2. The sequence of events as narrated in the writ petition shows that the property involved herein belongs to the petitioners, who obtained the same as per Ext. P1 sale deed of SRO, Alangad. After purchasing the property, mutation has been effected in terms of

the Transfer of Registry Rule and tax was being paid, as borne by Ext. P2. Earlier, the predecessor-in-title had approached this Court by filing W.P.(C) No. 11374 of 2009 raising grievance with regard to the course pursued by the authorities of the Revenue, for not considering the application filed by them, with regard to the nature of property and the user. According to the petitioners therein, the property was lying as reclaimed land and was never a paddy land or wet land. The said writ petition was disposed of, as per Ext. P6 judgment passed by this Court on 06.04.2009, directing the concerned RDO to consider the application preferred under the relevant provisions of the KLU and also in the light of the law declared by this Court in **Jayakrishnan Vs. District Collector and Ors. [2008 (4) KHC 514]**.

3. Pursuant to the above verdict, the matter was considered by the RDO, who sent Ext. P9 letter to the Principal Agricultural Officer, Ernakulam and also to the Secretary to the concerned local authority, seeking for some clarifications. What happened thereafter is not revealed from the proceedings. But it is seen that predecessor-in-title had approached this Court again by filing W.P. (C) No. 9172 of 2013, arraying the Revenue Divisional Officer,

Tahasildar and the Village Officer in the party array, with the following prayers :

"a) Issue a writ of mandamus or any other appropriate writ order or direction, directing the respondents to classify the property of the petitioner covered by Exts. P1 and P2 sale deeds as purayidom/parambu in the place of Nilam (paddy field) as per the revenue records and in the basic tax register.

(b) Issue a writ of mandamus or any other appropriate writ order or direction, directing the respondents to take a decision on Ext. P4 report immediately by classifying the property of the petitioner as purayidom/parambu in the place of Nilam (paddy field) after affording and opportunity of hearing to the petitioner.

After considering the prayers as above, the writ petition was disposed of, as per Ext. P10 judgment, directing the second respondent therein (Tahasildar) to consider and pass appropriate orders on Ext. P3 mentioned therein, so as to cause necessary entries in the BTR. It is seen that the matter was considered by the Additional Tahasildar, who passed Ext. P11 order, whereby necessary corrections were incorporated in the BTR as 'Nikathu

purayidom' (reclaimed land) and the position stands as it is. The predecessor-in-interest was satisfying the tax as well, in respect of the above property and it was while so, that the same came to be transferred to the petitioner, who purchased the same as per Ext. P1 and satisfied the tax as per Ext. P2.

4. When the petitioner approached the respondents for issuance of possession certificate and location certificate, the second respondent (officer who is now holding the post) sent Ext. P5 reply dated 25.12.2014, stating that, some clarification has been sought for from the District Collector and that the matter can be considered only thereafter. This made the petitioner to approach this Court by filing the present writ petition.

5. Heard the learned Government Pleader as well.

6. There is no dispute with regard to the fact that the entries in the BTR now stands corrected, as per Ext. P11, pursuant to the earlier round of litigations. There is also no dispute with regard to the title, possession, ownership and such other interest. As such, there is absolutely no rhyme or reason for having issued Ext. P5 to keep the request made by the petitioner in abeyance. As on date, the petitioner is entitled to get the certificates, as

sought for, based on the entries now in existence, as revealed from the relevant proceedings, particularly Ext. P11

6. In the above circumstances, there will be a direction to the first respondent to issue 'Possession certificate' and 'Location certificate', as sought for, subject to satisfaction of all other legal requirements, if any, which shall be done at the earliest, at any rate, within two weeks. If any modification is to be made with regard to the entries in the relevant records, it goes without saying that no such steps shall be pursued without serving proper notice to the petitioner and without affording an opportunity of hearing to the petitioner.

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

The Writ Petition is disposed of.

Sd/-

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

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