

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5530 of 2015 (M)

PETITIONER(S):

**R.JANARDHANAN PILLAI, AGED 74 YEARS,
S/O.LATE RAMAN PILLAI, BHANUSHAM, IRON BRIDGE.P.O,
MULLACKAL, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
ALAPPUZHA., PIN- 688 001.**
- 3. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE, AMBALAPUZHA, ALAPPUZHA DISTRICT, PIN- 688 001.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE DEED DATED 05/03/2003 NO. 920 OF
SUB REGISTRAR'S OFFICE, AMBALAPPUZHA.
- EXT.P2: TRUE COPY OF THE BASIC TAX RECEIPT DATED 11-04-2013 ISSUED BY
THE VILLAGE OFFICER, MULLACKAL.
- EXT.P3: TRUE COPY OF THE COMPLAINT DATED 06-06-2014 FILED BY
PETITIONER before THE 3RD RESPONDENT.
- EXT.P4: TRUE COPY OF THE RECEIPT DATED 06-06-2014
- EXT.P5: TRUE COPY OF THE APPLICATION DATED 11.02.2015 ISSUED BY
3RD RESPONDENT.
- EXT.P6: TRUE COPY OF THE APPLICATION DATED 13-02-2015.
- EXT.P7: TRUE COPY OF THE RECEIPT DATED 13-02-2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.5530 of 2015

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Dated this the 20th day of February, 2015

JUDGMENT

Petitioner along with his wife and sons purchased 24.390 cents of land in Survey Nos.813/13A, 813/13B, 813/16A and 813/5 of Mullackal Village, by virtue of sale deed bearing No.920 dated 05.03.2003. It is stated that, the said property is being enjoyed by the petitioner with absolute ownership and exclusive possession on behalf of other co-owners also. They are remitting basic tax in respect of 9.22 Ares of property comprised in the above survey Nos. after effecting mutation. While so, when re-survey proceedings were initiated, the property covered by Ext.P2 was reduced to 8.77 Ares and thereby an extent of 0.45 Ares (more than 1 cent) is seen deducted in the Re-survey records whereupon, the petitioner preferred complaint before the 3rd respondent on 06.06.2014, for curing the defects. No action, whatsoever, is taken in the complaint. But, alleging that there was encroachment at the hands of the petitioner, it is required to effect vacant surrender within ten days, lest,

coercive proceedings should be taken at the cost and risk of the petitioner. The petitioner immediately rushed to the 3rd respondent with Ext.P6 application, but without considering the same, further steps are being proceeded against, which made the petitioner to approach this Court by filing this writ petition.

2. The learned counsel for the petitioner points out that, Ext.P5 is per se wrong and illegal in all respects, apart from the fact that it is obscure in all respects. The learned counsel also points out that, no notice whatsoever was issued to the petitioner at any point of time as envisaged under Section 12 of the Kerala Land Conservancy Act.

3. Heard the learned Government Pleader as well.

4. After going through the pleadings and proceedings, this Court finds that, if no notice was issued to the petitioner as contemplated under Section 12, prior to issuance of Ext.P1, further proceedings pursuant to Ext.P5 are not liable to be pursued before giving an opportunity of hearing to the petitioner.

5. In the said circumstances, there will be a direction to the 3rd respondent to verify the position and if no notice was issued

under Section 12, a proper notice, giving facts and figures, shall be issued to the petitioner within 'two weeks' from the date of receipt of a copy of this judgment. It will be open for the petitioner to submit reply on receipt of the said notice, which shall be done within 'two weeks' from the date of receipt of the notice as above. The proceedings shall be finalised accordingly, after conducting measurement of the property with notice to the petitioner and other interested parties, if any, and after giving an opportunity of hearing, at the earliest, at any rate, within 'one month' thereafter.

'Status quo' will continue till such time.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 3rd respondent, for further steps.

The writ petition is disposed of.

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