

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 5875 of 2015 (H)

PETITIONER(S):

**VIJAYAN A, AGED 55 YEARS,
SON OF RAMAN, ARANHIKKAT HOUSE, CHEERATTAMANNA,
VALAMBUR (P.O), PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT, PIN-670 325.**

BY ADV. SRI.R.RAJESH KORMATH

RESPONDENT(S) :

**THE VILLAGE OFFICER, PERINTHALMANNA,
VILLAGE OFFICE, PERINTHALMANNA, PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT, PIN-679 322.**

BY SR.GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT P1 :** TRUE-COPY OF THE REGISTERED ASSIGNMENT DEED
DATED 07-02-1989 OF SUB REGISTRAR'S OFFICE, PERINTHALMANNA.
- EXT P2 :** TRUE-COPY OF THE GIFT-DEED DATED 28-10-2011 OF
SUB-REGISTRAR'S OFFICE, PERINTHALMANNA.
- EXT P3 :** TRUE-COPY OF THE RECEIPT DATED 30-04-2014 ISSUED BY
THE RESPONDENT-VILLAGE OFFICER, IN THE NAME OF
THE PETITIONER.
- EXT P4 :** TRUE-COPY OF THE APPLICATION FOR ATTACHMENT AND
THE ACCOMPANYING-AFFIDAVIT DATED 13-05-2014, FILED AS
I.A.NO.504 OF 2014 IN O.S.NO.25 OF 2014 ON THE FILE OF THE COURT
OF THE SUBORDINATE JUDGE OF MANJERI.
- EXT P5 :** TRUE COPY OF THE ORDER DATED 24-05-2014 IN I.A.NO.504 OF 2014
IN O.S. NO.25 OF 2014 ON THE FILE OF THE COURT OF
THE SUBORDINATE JUDGE OF MANJERI.
- EXT P6 :** TRUE COPY OF THE APPLICATION FOR POSSESSION-CERTIFICATE.
- EXT P7 :** TRUE COPY OF THE COMMUNICATION DATED 11-02-2015 ISSUED BY
THE RESPONDENT VILLAGE-OFFICER TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R.RAMACHANDRA MENON, J.

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Dated this the 9th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i. A writ of certiorari or any other appropriate writ, direction or order quashing Ext.P7*
- ii. A writ of mandamus or any other appropriate writ, direction or order commanding the respondent- Village Officer to issue the possession certificate requested for in Ext.P6 application.*

2. The learned counsel for the petitioner submits that the ownership, title and possession of the petitioner stand established by virtue of Exts.P1 and P2 and there is no dispute in this regard. However, in connection with some other cause of action, there is an attachment order by civil court as evidenced by Ext.P5, which in no way does adversely affect the rights and interests of the petitioner over the property, particularly as to the possession. The request made by the petitioner for issuance of possession certificate came to be turned down by the respondent

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which in turn is under challenge in this writ petition.

3. Heard the learned Government as well, who submits on instructions that no other adverse circumstance is there, but for existence of Ext.P5 order of attachment. It has been made clear by this Court on many an occasion that attachment of the property cannot be a bar in considering the request for effecting mutation or satisfaction of the tax as per the decision reported in **Joseph Kurian v. Village Officer [2010 (3) KLT 251]**. The same is equally applicable to the case in hand, in so far as the request of the petitioner is for issuance of a possession certificate. There is no dispute with regard to the ownership or possession of the petitioner over the land in question.

4. In the said circumstances, the respondent is directed to reconsider Ext.P6 application preferred by the petitioner for issuance of possession certificate in respect of the property covered by Exts.P1, P2 and P3 tax receipt as sought for, subject to the satisfaction of other requirements in accordance with law. This shall be done at the earliest, at any rate within a period of two weeks from the date of receipt of a copy of this judgment.

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The writ petition is disposed of.

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

Sd/-

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

rkc.