

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 6391 of 2015 (Y)

PETITIONER(S) :

1. V.VASUDEVAN MENON, AGED 75 YEARS,
S/O.RAMAN NAIR, 'JAIRAM NIVAS, PONNURUNTHY,
VYTTILA, COCHIN-682 019.
2. HARIDAS, S/O.KRISHNA PILLAI,
'SUJULAND', THYCOODAM, VYTTILA, COCHIN-682 019.
3. RAMACHANDRAN, S/O.A.KUNJU,
JAYA BHAVANAM, JANATHA ROAD, VYTTILA, COCHIN-682 019.
4. SAJI JOSEPH, S/O.P.T.JOSEPH,
'PIONEER', JANATHA ROAD, VYTTILA, COCHIN-682 019.
5. MANOJ P.J., S/O.LATE P.V.JOHN,
PERUMPILLY HOUSE, ST.JAMES ROAD, VYTTILA,
THYCOODAM, COCHIN-682 019.
6. ALPHONSE, S/O.AVARA,
EDAPPARAMBU, ST.JAMES ROAD,VYTTILA, COCHIN-682 019.
7. K.P.CHACKO, S/O.K.C.PETER,
KATTADIYIL HOUSE, ST.JAMES ROAD, VYTTILA, COCHIN-682 019.
8. P.V.GEORGE,S/O.P.V.VARGHESE,
PUTHUKULATHU HOUSE, KUSUMAGIRI P.O., KAKKANAD.
9. PREETHA JOSEPH,
NO.29, 433, JANATHA ROAD, VYTTILA, COCHIN-682 019.
10. SUBIN SEBASTIAN,
PARAYIL HOUSE, JANATHA ROAD, VYTTILA, COCHIN-682 019.
11. JYOTHI, W/O.BALAKRISHNAN N.,
'SAIJYOTHI', JANATHA ROAD, VYTTILA, COCHIN-682 019.
12. M.U.KRISHNAN,
29/413-A, 'ADARSH', JANATHA ROAD, VYTTILA, COCHIN-682 019
13. MARIA ELIZABETH METILDA, D/O.MARY GOSMI,
KODARAPPIILLY HOUSE, VYTTILA, COCHIN-682 019.

**14. P.V.MICHAEL, S/O.VAREETH,
PALLIPARAMBIL, ST.JAMES ROAD, VYTTILA, COCHIN-682 019.**

**BY SRI.N.N.SUGUNAPALAN (SENIOR ADVOCATE)
ADV. SRI.S.SUJIN**

RESPONDENT(S) :

- 1. THE CHAIRMAN, TALUK LAND BOARD,
KANAYANNUR & REVENUE DIVISIONAL OFFICER, FORT COCHIN,
ERNAKULAM DISTRICT-682 001.**
- 2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.**
- 3. THE ADDITIONAL TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.**
- 4. THE LAND TRIBUNAL,
ERNAKULAM, CIVIL STATION, TRIPUNITHURA-682 030.**
- 5. THE DISTRICT COLLECTOR,
ERNAKULAM-682 030.**
- 6. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY SR.GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE DEED NO.1208/2006 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 1ST PETITIONER.
- EXT.P2: TRUE COPY OF THE SALE DEED NO.2755/1986 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 2ND PETITIONER.
- EXT.P3: TRUE COPY OF THE SALE DEED NO.321/1987 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 3RD PETITIONER.
- EXT.P4: TRUE COPY OF THE SALE DEED NO.5352/2007 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 4TH PETITIONER'S
FATHER.
- EXT.P5: TRUE COPY OF THE SALE DEED NO.2966/1980 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 5TH PETITIONER.
- EXT.P6: TRUE COPY OF THE SALE DEED NO.5087/1986 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 6TH PETITIONER
- EXT.P7: TRUE COPY OF THE SALE DEED NO.4178/1992 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 7TH PETITIONER
- EXT.P7(A): TRUE COPY OF THE SALE DEED NO.471/1993 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 7TH PETITIONER.
- EXT.P8: TRUE COPY OF THE SALE DEED NO.3337/1980 OF SRO,
TRIPUNITHURA.
- EXT.P9: TRUE COPY OF THE SALE DEED NO.3137/1992 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 9TH PETITIONER'S
HUSBAND.
- EXT.P10: TRUE COPY OF THE SALE DEED NO.895/1979 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 10TH PETITIONER'S FATHER.
- EXT.P11: TRUE COPY OF THE SALE DEED NO.538/2005 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 10TH PETITIONER.
- EXT.P12: TRUE COPY OF THE SALE DEED NO.320/1987 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 11TH PETITIONER.
- EXT.P13: TRUE COPY OF THE SALE DEED NO.522/1988 OF SRO, TRIPUNITHURA
EXECUTED IN FAVOUR OF THE 12TH PETITIONER.
- EXT.P14: TRUE COPY OF THE SALE DEED NO.2849/1985 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 13TH PETITIONER.
- EXT.P15: TRUE COPY OF THE SALE DEED NO.2241/1993 OF SRO,
TRIPUNITHURA EXECUTED IN FAVOUR OF THE 13TH PETITIONER.

- EXT.P16: TRUE COPY OF THE SALE DEED NO.1026/1985 OF SRO, TRIPUNITHURA EXECUTED IN FAVOUR OF THE 14TH PETITIONER.
- EXT.P16(A): TRUE COPY OF THE SALE DEED NO.422/1985 OF SRO, TRIPUNITHURA EXECUTED IN FAVOUR OF THE 14TH PETITIONER.
- EXT.P17: TRUE COPY OF THE ORDER NO.L-4755/78 DATED 30.06.2009 ISSUED BY THE 1ST RESPONDENT.
- EXT.P18: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENTS.
- EXT.P19: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 20.09.2011 IN WP(C)NO.24399/11.
- EXT.P20: TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 3RD PETITIONER.
- EXT.P20(A): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 4TH PETITIONER.
- EXT.P20(B): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 5TH PETITIONER.
- EXT.P20(C): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 6TH PETITIONER.
- EXT.P20(D): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 7TH PETITIONER.
- EXT.P20(E): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 9TH PETITIONER'S HUSBAND.
- EXT.P20(F): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 10TH PETITIONER.
- EXT.P20(G): TRUE COPY OF NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 10TH PETITIONER'S MOTHER.
- EXT.P20(H): TRUE COPY OF NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 10TH PETITIONER'S FATHER.
- EXT.P20(I): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 11TH PETITIONER.
- EXT.P20(J): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 12TH PETITIONER.
- EXT.P20(K): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 13TH PETITIONER.
- EXT.P20(L): TRUE COPY OF THE NOTICE NO.H4-9125/94 DATED 29.01.2015 ISSUED BY THE 3RD RESPONDENT TO THE 14TH PETITIONER.

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**EXT.P21: TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONERS
(12TH PETITIONER) BEFORE 3RD RESPONDENT DATED 10.02.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.6391 OF 2015
.....

Dated this the 3rd day of March, 2015

J U D G M E N T

The petitioners herein are in ownership and possession of small extents of land in Survey Nos.1036/3, 4 & 5 of Poonithura Village, Kanayannur Taluk, which was purchased by them as per Exts.P1 to P16/16(a) sale deeds for valuable sale consideration. The vendor of the above property obtained the same from another person by name Mary Gosmine, who was the declarant in the Ceiling Case No. L-4755/78. Steps have been taken to proceed against the said properties, which according to the petitioners are not correct or sustainable, as the petitioners have entitled to the benefit of Section 7E of the K.L.R Act, as amended. It is also stated that the petitioners have already approached the 1st respondent by filing Ext.P18 (preferred by them jointly). Because of the coercive steps, the petitioners approached this Court earlier by filing W.P.(C) No.24399/2011, which was disposed of as Ext.P19 judgment dated 20.09.2011, whereby the 1st respondent was directed to consider the aforesaid application (produced as Ext.P18) with notice to the petitioners, at the earliest and at any rate within

three months from the date of production of a copy of the judgment. The case of the petitioners is that the proceedings are still to be finalized and the non-compliance of the direction given by this Court virtually amounts to contempt of court as well.

2. Without complying with the direction, the revenue authorities have issued Ext.P20 series notices to the petitioners on 29.01.2015 requiring to vacate the premises, lest coercive steps should be pursued to evict the petitioners. This made the petitioners to approach this Court again by filing this writ petition.

3. Heard the learned Government Pleader as well.

4. Going by the pleadings and proceedings, it is seen that the course pursued by the revenue authorities by issuing Ext.P20 series notices, before finalizing the applications preferred by the petitioners under Section 7E of the Act, as referred to in Ext.P19 and before complying with the direction given by the Court as per the said judgment, is liable to be deprecated. It is true that coercive steps were not intercepted when Ext.P19 judgment was passed. It presupposed the direction given by this Court to be complied without any delay

and within the prescribed time. Nearly three and a half years are already over, after passing Ext.P19 judgment. The learned counsel for the petitioners asserts that no copy of the order has been served/sent to the petitioners, pursuant to Ext.P19. If this is true, no further proceedings can be taken pursuant to Ext.P20 series notices, before finalizing the proceedings as ordered by Ext.P19 judgment.

5. It is true that no Contempt of Court proceedings will lie at this distance of time, with regard to non-compliance of Ext.P19, as the stipulated time under Sec.20 of the Contempt of Courts Act is over, and in view of the law declared by a Full Bench of this Court in '**Damodaran v. Cherkalam Abdulla**' [2007 (2) KLT 171]. It is also brought to the notice of this Court that under similar circumstances, favorable orders like Ext.P16 order has been passed by the 1st respondent in the case of other similarly situated persons.

6. This being the position, the 1st respondent is directed to finalize the proceedings as already ordered by this Court vide Ext.P19, passing appropriate orders on Ext. P18 within 'one month' from the date of receipt of a copy of this judgment and the outcome shall be let known to the Registrar General of

this Court forthwith. All further proceedings pursuant to Ext.P20 series shall stand stayed till such time.

7. The writ petition is disposed of as above.

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. To Judge

St/-