

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 6981 of 2015 (W)

PETITIONER(S) :

1. S. NAVAMANI,
AGED 57 YEARS, S/O.SEENI NADAR,
NARAYANA BHAVAN, AP XII/137,
PATHEKKAR, POOTHOTTAM, KAZHUTHURUTTY P.O.,
PIN - 691 309, KOLLAM DIST.
2. S. SELVAM,
AGED 75 YEARS, S/O.SABARIMUTHU NADAR,
ANNAI ILLAM, (ARUL BHAVAN)APXII/197, PATHEKKAR,
POOTHOTTAM, KAZHUTHURUTTY P.O. , PIN - 691309,
KOLLAM DIST.
3. SABOORA,
AGED 77 YEARS, W/O.HAMEED,
EATTIMOOTTIL VEEDU, APXII/147,
PATHEKKAR, POOTHOTTAM, KAZHUTHURUTTY P.O.,
PIN - 691 309, KOLLAM DIST.
4. H. ABDUL KHADHAR,
AGED 58 YEARS, S/O.HAMMED, MONISHA MANZIL,
APXII/146, PATHEKKAR, POOTHOTTAM,
KAZHUTHURUTTY P.O.,PIN - 691 309, KOLLAM DIST.
5. A. MUTHAIAH NADAR,
AGED 86 YEARS, MUTHU BHAVANAM, APXII/124,
PATHEKKAR, POOTHOTTAM, KAZHUTHURUTTY P.O.,
PIN - 691 309, KOLLAM DIST.
6. M. DHINESH THAMPI,
AGED 41 YEARS, S/O.MOHAN THAMPI, GOKULAM,
APXII/123, PATHEKKAR, POOTHOTTAM,
KAZHUTHURUTTY P.O., PIN - 691309, KOLLAM DIST.
7. BINDHUMOL THAMPI,
AGED 37 YEARS, W/O.DINESH THAMPI, GOKULAM,
APXII/123, PATHEKKAR, POOTHOTTAM,
KAZHUTHURUTTY P.O.,PIN - 691 309, KOLLAM DIST.

8. C. DURAIRAJ,
AGED 62 YEARS, S/O.CHELLAIAH, VIJI BHAVANAM,
APXII/122, PATHEKKAR, POOTHOTTAM,
KAZHUTHURUTTY P.O., PIN - 691 309, KOLLAM DIST.
9. FATHIMA BEEVI,
W/O.ABDULKHANI, AGED 56 YEARS,
PLAMOOTTIL HOUSE, APXII/119, PATHEKKAR
POOTHOTTAM, KAZHUTHURUTTY P O , PIN - 691 309,
KOLLAM DIST.
10. GLORY,
AGED 59 YEARS, W/O.ABRAHAM DEVADARSAN,
JAYA BHAVANAM, APXII/116,
PATHEKKAR, POOTHOTTAM, KAZHUTHURUTTY P.O.,
PIN - 691 309, KOLLAM DIST.
11. M.CHANDRA BHANU,
AGED 54 YEARS, S/O. MADHAVAN,
ESTATE QUARTERS, POOTHOTTAM, KAZHUTHURUTTY P.O.,
PIN - 691 309, KOLLAM DIST.
12. BHAGYA SELVAM,
AGED 55 YEARS, W/O.CHANDRA BHANU, ESTATE QUARTERS,
POOTHOTTAM, KAZHUTHURUTTY P.O., PIN - 691 309,
KOLLAM DIST.
13. S. PONRAJ,
AGED 26 YEARS, S/O.SAMUDRAM, ESTATE QUARTERS,
POOTHOTTAM, KAZHUTHURUTTY P.O. ,
PIN - 691 309, KOLLAM DIST.
14. A. MASOOD,
AGED 37 YEARS, S/O.ABDUL KHANI,
NATIONAL HOUSE, URUKUNNU P.O., PIN-691 307,
KOLLAM DIST.
15. G. MARIADHAS,
AGED 62 YEARS, S/O.GNANAPRAKASAM,
MIDDLE DIVISION, AMBANAD P.O., KOLLAM DIST.

BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA.

RESPONDENT(S) :

1. DISTRICT COLLECTOR,
COLLECTORATE, KOLLAM,
PIN-691 001

2. STATE SPECIAL OFFICER,
GOVERNMENT LAND RESUMPTION ,
PUBLIC OFFICE BUILDING,
MUSEUM ROAD, THIRUVANANTHAPURAM-695 003.
3. TAHSILDAR,
PUNALUR TALUK, KOLLAM , PIN-689 696.
4. VILLAGE OFFICER,
THENMALA VILLAGE, PUNALLOOR TALUK, KOLLAM DIST,
PIN-691 308

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1:- TRUE COPY OF THE RESIDENCE OWNERSHIP CERTIFICATE OF THE RESIDENTIAL BUILDING OF THE 1ST PETITIONER DTD. 1/1/2015.
- EXT. P1(A):- TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER DTD 18/5/2013.
- EXT. P1(B):- TRUE COPY OF THE REGISTERED SALE DEED NO 1311/1991 RELATING TO THE PROPERTY OF THE 1ST PETITIONER.
- EXT. P2:- TRUE COPY OF THE OWNERSHIP RESIDENTIAL CERTIFICATE OF THE BUILDING OF THE 2ND PETITIONER.
- EXT. P2(A):- TRUE COPY OF THE RATION CARD OF THE 2ND PETITIONER.
- EXT. P2(B):- TRUE COPY OF THE VOTERS IDENTITY CARD OF THE 2ND PETITIONER.
- EXT. P2(C):- TRUE COPY OF THE AADHAAR CARD OF THE 2ND PETITIONER.
- EXT. P2(D):- TRUE COPY OF THE BASIC TAX RECEIPT DTD 18/5/2013 OF THE 2ND PETITIONER.
- EXT. P2(E):- TRUE COPY OF THE REGISTERED SALE DEED NO 4926/2014 OF THE 2ND PETITIONER.
- EXT. P3:- TRUE COPY OF THE OWNERSHIP CERTIFICATE OF THE BUILDING OF THE 3RD PETITIONER DTD 11/1/2014.
- EXT. P3(A):- TRUE COPY OF THE RATION CARD OF THE 3RD PETITIONER.
- EXT. P3(B):- TRUE COPY OF THE VOTERS IDENTITY CARD OF THE 3RD PETITIONER.
- EXT. P3(C):- TRUE COPY OF THE AADHAAR CARD OF THE 3RD PETITIONER.
- EXT. P3(D):- TRUE COPY OF THE BASIC TAX RECEIPT DTD 16/11/2010 OF THE 3RD PETITIONER.
- EXT. P3(E):- TRUE COPY OF REGISTERED SALE DEED 4/9/2010 OF THE 3RD PETITIONER.
- EXT. P4:- TRUE COPY OF THE OWNERSHIP RESIDENTIAL CERTIFICATE DTD 1/1/2015.

- EXT. P4 (A) :- TRUE COPY OF THE RATION CARD OF THE 4TH PETITIONER.
- EXT. P4 (B) :- TRUE COPY OF THE VOTERS IDENTITY CARD OF THE 4TH PETITIONER.
- EXT. P4 (C) :- TRUE COPY OF THE AADHAAR CARD OF THE 4TH PETITIONER.
- EXT. P4 (D) :- TRUE COPY OF THE BASIC TAX RECEIPT DTD 13/5/2013 OF THE 4TH PETITIONER.
- EXT. P5:- TRUE COPY OF THE OWNERSHIP CERTIFICATE DTD 1/1/2015 ISSUED BY THE PANCHAYATH TO THE 5TH PETITIONER.
- EXT. P5 (A) TRUE COPY OF THE AADHAAR CARD OF THE 5TH PETITIONER.
- EXT. P5 (B) :- TRUE COPY OF THE VOTERS IDENTITY CARD OF THE 5TH PETITIONER.
- EXT. P5 (C) :- TRUE COPY OF THE BASIC TAX RECEIPT DTD 30/7/2012 ISSUED TO THE 5TH PETITIONER.
- EXT. P5 (D) :- TRUE COPY OF THE REGISTERED SALE DEED DTD 6/4/2000 OF THE 5TH PETITIONER.
- EXT. P6:- TRUE COPY OF THE BASIC TAX RECEIPT ISSUED TO THE 6TH PETITIONER DTD 25/04/2013.
- EXT. P7:- TRUE COPY OF THE BASIC TAX RECEIPT DTD 28/4/2013 ISSUED TO THE 7TH PETITIONER.
- EXT. P8:- TRUE COPY OF THE BASIC TAX RECEIPT ISSUED TO THE PROPERTY OF THE 8TH PETITIONER DTD 22/6/2012.
- EXT. P9:- TRUE COPY OF THE OWNERSHIP CERTIFICATE OF THE RESIDENTIAL BUILDING DTD 9/1/2015 OF THE 9TH PETITIONER.
- EXT. P9 (A) :- TRUE COPY OF THE ELECTION IDENTITY CARD OF THE 9TH PETITIONER.
- EXT. P9 (B) :- TRUE COPY OF THE AADHAAR CARD OF THE 9TH PETITIONER.
- EXT. P9 (C) :- TRUE COPY OF THE RATION CARD OF THE 9TH PETITIONER.
- EXT. P10:- TRUE COPY OF THE LAND TAX RECEIPT ISSUED TO THE 10TH PETITIONER DTD 21/5/2013.
- EXT. P11:- TRUE COPY OF THE LAND TAX RECEIPT ISSUED TO THE 11TH PETITIONER DTD 30/7/2012.

EXT. P12:- TRUE COPY OF THE LAND TAX RECEIPT DTD 30/7/2012
ISSUED TO THE 12TH PETITIONER.

EXT. P13:- TRUE COPY OF THE LAND TAX RECEIPT ISSUED TO THE 14TH
PETITIONER DTD 4/7/2011.

EXT. P14:- TRUE COPY OF THE LAND TAX RECEIPT DTD 13/5/2014
ISSUED TO THE 14TH PETITIONER.

EXT. P15:- TRUE COPY OF THE LAND TAX RECEIPT DTD 4/4/2014 ISSUED
TO THE 15TH PETITIONER.

EXT. P16:- TRUE COPY OF THE DECREE OF DISTRICT COURT KOLLAM IN
AS NO 89/1985 DTD 23/5/1987.

EXT. P17:- TRUE COPY OF THE JUDGMENT IN SA NO 885/1987 OF THIS
HON'BLE COURT.

EXT. P18:- TRUE COPY OF THE LETTER ISSUED BY THE SPECIAL OFFICER
TO THE DISTRICT COLLECTORS.

EXT. P19:- TRUE COPY OF THE JUDGMENT REPORTED IN 2013(3)KLT SN
119

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.6981 of 2015

Dated this the 12th day of March, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

"i. Issue a writ in the nature of mandamus commanding the respondents 3 and 4 to accept basic tax from the respective petitioners within such time as may be fixed by this Hon'ble Court, for the land for which basic tax were accepted from the petitioners earlier.

ii. Declare that petitioners are entitled to pay basic tax under the Kerala Land Tax Act for the lands which are entered in their name in the revenue records.

iii. Issue such other orders, writs or direction as are deemed fit by this Hon'ble Court.

iv. Award cost of this proceedings to the petitioners."

2. The learned counsel for the petitioners points out that, they came to be the owners of the properties pursuant to the proceedings of the concerned Land Tribunal, issuing patta to the predecessor-in-interest, who conveyed the property subsequently to the petitioners. It is stated that, the mutation has already been effected in the name of the petitioners in the Revenue

Records and the petitioners have effected construction of residential building and are living there for the past several decades, also satisfying tax under the Kerala Land Tax Act. The relevant copies of the tax receipts are produced herein as Exts.P1 (a), P2(d), P3(d), P4(d), P5(c), P6,P7,P8 and P10 to P15 in respect of the said property. While so, a Civil suit was filed as O.S. No.62 of 1982 before the Sub Court, Kottarakkara, arraying as many as 61 defendants, by 'Malayalam Plantation Limited', claiming that they are the actual owners of the 29.98 Ares of land in Survey No.878/5 shown as plaint schedule property and seeking for recovery of possession on the strength of title. It is stated that, the suit filed against the predecessor-in-interest of the petitioners came to be dismissed holding that 'Malayalam Plantation Limited' has lost the title by virtue of adverse possession and limitation. Subsequently, 'Harrison Malayalam Limited', who stepped into the shoes of 'Malayalam Plantation Limited', filed an appeal as A.S. No.89 of 1985 before the District Court, Kollam, which came to be dismissed as per decree dated 23.05.1987. The proceedings came up before this Court by way

of S.A. No.885 of 1987, which was also dismissed by this Court as per judgment dated 19.03.1997. The matter has become final and the rights and liberties of the petitioners with regard to the ownership, possession and enjoyment are not liable to be interfered in any manner. But, quite recently, the authorities of the revenue have refused to accept the tax in respect of the above properties of the petitioners based on some instructions stated as given from the part of the State and the petitioners have been let known that, some enquiry was lodged in to ascertain the validity of the title at the hands of the 'Harrison Malayalam Limited' and that the same is going on.

3. Heard the learned Special Government Pleader appearing for the respondents as well.

4. After hearing both the sides, this Court finds that, as on this date, the petitioners are declared and accepted as the owners of the property concerned, who are in possession and enjoyment of the same. They were also satisfying the tax after effecting mutation of the property in their name.

5. In the said circumstances, there will be a direction to the

respondents 3 and 4 to accept the land tax in respect of the properties concerned under the Kerala Land Tax Act as and when the same is tendered. It is made clear that, this will not bar the way of the respondents in proceeding against the petitioners' property concerned, if such an interference is possible, in accordance with the relevant provisions of law.

The petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the respondents 3 and 4, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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