

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).NO. 10981 OF 2012 (W)

PETITIONER:

K.BHAGEERATHAN, AGED 62 YEARS,
MANJATH HOUSE, NEMENI, AMBALAVAYAL,
SULTHAN BATHERY, WYNAD.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT(S) :

1. THE VILLAGE OFFICER,
AMBALAVAYAL VILLAGE, SULTHAN BATHERY-673 592.
2. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE, MINI CIVIL STATION,
SULTHAN BATHERY-673 592.
3. THE DISTRICT COLLECTOR
WYNAD-673121

ADDL.4. T.P.KUNJIMHAMMED
S/O.ABU, AGED 64 YEARS, THEKKEPEDIKAYIL HOUSE,
DEVIKUNNU, AMBALAVAYAL.P.O., WAYANAD DISTRICT.
ADDL. R4 IS IMPEADED AS PER ORDER DATED 25/06/2012 IN IA
7767/2012.

RADDL.4 BY ADV. SRI.C.A.CHACKO
R1-R3 BY ADV. GOVERNMENT PLEADER, SRI. T.J. MICHAIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1- TRUE COPY ORDER DATED 31.7.1984 ISSUED BY THE GOVERNMENT.

EXHIBIT P2- TRUE COPY OF PATTA AND THE ATTACHED SKETCH ISSUED TO THE PETITIONER.

EXHIBIT P3- TRUE COPY OF GOVERNMENT ORDER DATED 5.11.2005.

EXHIBIT P4- TRUE COPY OF LETTER DATED 8.12.2011 OF THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXHIBIT P5- TRUE COPY OF LETTER DATED 28.12.2011 FROM THE 2ND RESPONDENT TO THE 3RD RESPONDENT.

EXHIBIT P6- TRUE COPY OF STOP MEMO DATED 28.4.2012.

RESPONDENTS' EXHIBITS :

EXHIBIT R3(A) : TRUE COPY OF THE APPLICATION FOR ASSIGNMENT DATED 05.08.2011.

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.10981 of 2012

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Dated this the 20th day of November, 2015

J U D G M E N T

The petitioner is an Ex-serviceman and he is in possession and enjoyment of 5.1 cents of land in Re-Sy.No.823/Part of Ambalavayal Village by Ext.P1. Even though 4 cents of property was ordered to be assigned to him, 5.1 cents of property was given to him and the said granting of excess property was brought to the notice of the 1st respondent and proceedings were initiated to re-possess the excess 1.1 cents of land. Thereafter, the petitioner had submitted an application for assigning the entire land in his possession and enjoyment. While so, the Government cancelled Ext.P1 on the ground that there was mistake in calculating the extent of land and the land was not utilised by the assignee. The petitioner challenged the said order in O.P.No.21649 of 1997 and

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this Court disposed of the said petition as per judgment dated 20.7.2005 directing the Government to examine the issue and pass appropriate orders.

2. Pursuant to judgment in O.P. No.21649 of 1997, the Government issued an order dated 05.11.2005, cancelling the order dated 09.06.1997 and restoring Ext.P1 order. Government also directed that the land in the petitioner's possession should be measured and if excess land is found in his possession, he should be asked to remit the cost of the land at the prevailing market rate. Finally, the Taluk Surveyor, Sulthan Bathery had measured the petitioner's property and had found that he was in possession of an excess 0.0055 Hectares in addition to the 4 cents assigned, as per Exts.P1 and P2 and the 1st respondent had therefore, written to the 2nd respondent that the petitioner should be granted patta for excess land in his possession and that cost of the land could be recovered from him, vide Ext.P4. On

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receipt of Ext.P4, the 2nd respondent had written to the 3rd respondent that the petitioner could be directed to remit an amount of Rs.88,000/-, towards the value of 0.0055 Hectares in his possession, by Ext.P5. In the meanwhile, the petitioner had constructed three shop rooms measuring 600 sq.ft. in the property and the Panchayat numbered the said building. However, while the petitioner was proceeding with construction in respect of other two shop rooms less than 200 sq. ft. in area, the 1st respondent issued a stop memo on the ground that he did not get patta in his possession in respect of said land, by Ext.P6. Ext.P6 is challenged in this Writ Petition, on the ground that the same is arbitrary and illegal. The petitioner has prayed to issue a writ of certiorari calling for Ext.P7 and quash the same.

3. Heard the learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that during the pendency of this Writ Petition, the

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petitioner has been granted with patta in respect of 0.0055 Hectares, in addition to 4 cents of property, which was granted earlier as per Ext.P2 patta.

5. To substantiate the above contention, learned counsel for the petitioner produced the patta in respect of the said property before this Court. Going by the said patta, it is seen that the competent authority had granted patta in respect of 0.0055 Hectares of property to the petitioner. Thus, it is seen that the dispute involved in this Writ Petition has been settled between the parties by issuing the patta to the petitioner.

Therefore, this Writ Petition will stand closed.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge