

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 11537 of 2009 (S)

PETITIONER(S) :-

P. ABDUL KAREEM,
PATHARI HOUSE, THUVVUR.P.O, MALAPPURAM DISTRICT.

BY ADVS.SRI.P.K.SURESH KUMAR
SMT.P.JAYALAKSHMI

RESPONDENT(S) :-

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEARTMENT OF REVENUE
THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR,
MALAPPURAM.
3. TAHSILDAR,
NILAMBUR TALUK, NILAMBUR.
4. T.M. HARIPRASAD,
MANAGER, THARAKKAL L.P SCHOOL, THUVVUR
MALAPPURAM DISTRICT.

R4 BY ADV. SRI.SAJU.S.A
SRI.K.C.KIRAN
R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF REVENUE REGISTER SHOWING DESCRIPTION OF LAND IN SY.No.102/6 OF THUVVUR VILLAGE.

EXT.P2 :- TRUE COPY OF LAND TAX REGISTER OF THUVVUR VILLAGE IN RESPECT OF PROPERTY IN Sy.No.102/6.

EXT.P3 :- TRUE COPY OF LETTER ISSUED BY THE VILLAGE OFFICER ON A QUERY ISSUED BY THE PANCHAYAT DATAED 26.3.2008.

EXT.P4 :- TRUE COPY OF THE LETTER ISSUED BY THE INFORMATION OFFICER, TALUK OFFICE, NILAMBUR DATED 5.2.2009.

EXT.P5 :- TRUE COPY OF LETTER No.10408 DATED NIL ISSUED BY THE 3RD RESPONDENT TO THE TALUK SURVEYOR, NILAMBUR.

EXT.P6 :- TRUE COPY OF REPORT OF THE SURVEYOR DATED 14.11.2007.

EXT.P7 :- TRUE COPY OF JUDGMENT DATED 25.9.2006 IN S.A.No.489/2002 PASSED BY THIS HON'BLE COURT.

EXT.P8 :- TRUE COPY OF ORDER No.G2-10408/07 DATED 31.12.2009 ISSUED BY THE 3RD RESPONDENT.

EXT.P9 :- TRUE COPY OF REPRESENTATION DATED 20.1.2009 SUBMITTED BY RESIDENTS OF THUVVUR VILLAGE, NILAMBUR TALUK BEFORE THE HON'BLE MINISTER FOR REVENUE.

EXT.P10 :- TRUE COPY OF LETTER DATED 5.2.2009 FROM THE UNDER SECRETARY, GOVT.LEGISLATIVE SECRETARIAT TO THE PETITIONER.

RESPONDENT'S EXHIBITS :-

EXT.R4(a) :- TRUE COPY OF THE REVENUE REGISTER ALONG WITH THE PLAN ISSUED BY THE VILLAGE OFFICER, TUVVUR, DATED NIL.

EXT.R4(b) :- TRUE COPY OF THE INTERIM FINAL DECREE IN OS 32/07, SUB COURT, OTTAPALAM.

EXT.R4(c) :- TRUE COPY OF THE REPRESENTATION FILED BY LATE KRISHNANUNNI BEFORE THE DISTRICT COLLECTOR, MALAPPURAM, DATED 15.5.2001.

EXT.R4(d) :- TRUE COPY OF THE APPLICATION FILED BY LATE KRISHNANUNNI BEFORE THE SURVEY SUPERINTENDENT, DATED 3.4.2000.

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EXT.R4(e) :- TRUE COPY OF THE COMMUNICATION OF TAHSILDAR,
NILAMBUR TO LATE KRISHNANUNNI, DT.2.6.2001.

EXT.R4(f) :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY
THE VILLAGE OFFICER, TUVVUR, DATED 28.2.2009.

EXT.R4(g) :- TRUE COPY OF THE TAX RECEIPT DATED 28.2.2009 ISSUED
BY THE VILLAGE OFFICER, TUVVUR.

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.11537 of 2009

Dated this the 29th day of May 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court by a public interest litigation challenging Ext.P8 order issued by the Additional Tahsildar, by which, a direction was issued to change the description of property in Block No.149 in Re-survey No.102/6 of Thuvvur Village and to submit a report regarding the same.

2. The contention of the petitioner is that the property aforesaid claimed by the 4th respondent is Government land. Reference is made to Exts.P1 and P2. Ext.P1 shows that the nature of the property in the Thandaper Register is a 'play ground' and Ext.P2 also indicates the same. There is no reference in Exts.P1 and P2 that it is a Government land. However, the petitioner submits that the property was being used as a play ground and therefore, the 4th respondent cannot have any claim over the same.

3. A counter affidavit has been filed by the 4th respondent inter alia challenging the right of the petitioner to file a public

interest litigation. According to him, he is a stooge in the hands of the office bearers of Tuvvur Jawahar Sports Club, who contested a suit against the 4th respondent's family with respect to the property involved in the writ petition. Further, he submits that this property was included in a partition suit and a decree had been passed. There was a mistake in the entries in the re-survey records, which was later corrected and on the basis of which, direction had been issued in terms of Ext.P8. Further, it is stated that the property had been demarcated and used for the purpose of a school managed by the 4th respondent.

4. Counter affidavit has also been filed on behalf of the first respondent stating that as per the old village records, the said land was situated in Survey No.635/3A1 A1 of Thuvvur Village having an extent of 1 acre 53 cents in the name of K.P.Narayananunni Nair, K.Narayanan Nair and Madhavan Nair. The land was classified as 'occupied dry'. Therefore, it is stated that the land situated in Block No.149 in Re-survey No.102/6 of Thuvvur Village was not a 'puramboke land'.

5. Having regard to the aforesaid factual situation, it is clear that the property involved is not 'puramboke land'. Under such circumstances, the petitioner's claim cannot be justified.

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6. Since the title to property is with the 4th respondent and if the petitioner has a different contention, his remedy is to approach the civil court. Even as per the counter affidavit filed by the Government, the property is not Government land.

Under such circumstances, the writ petition cannot be entertained. Accordingly, the same is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE