IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

TUESDAY, THE 28TH DAY OF JANUARY 2014/8TH MAGHA, 1935

WP(C).No. 12087 of 2009 (E)

PETITIONER:

P.M.ABDUL KHADER,KANNITTAYIL HOUSE,
VELOOR.PO, THIRUVATHUKAL, KOTTAYAM.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SMT.ASHA ELIZABETH MATHEW

RESPONDENTS:

1. **STATE OF KERALA,REP.,BY THE PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT THIRUVANANTHAPURAM.**

2. **DISTRICT COLLECTOR,COLLECTORATE, IDUKKI.**

3. **REVENUE DIVISIONAL OFFICER,R.D.O.OFFICE, DEVIKULAM.**

4. **SPECIAL TAHSILDAR,REVENUE RECOVERY, UDUMPUMCHOLA TALUK, NEDUMKANDAM.P.O.**

5. **VILLAGE OFFICER,VILLAGE OFFICE, SANTHANPARA.**

BY SPLECIAL GOVERNMENT PLEADER SMT. SUSHEELA R.BHAT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 12087/2009

APPENDIX:

PETITIONER'S EXTS:
P1:(A TO C) TRUE COPIES OF THE PROPERTY TAX RECEIPTS.

P2: A TRUE COPY OF RECEIPT NO. 75 IN BOOK NO., 55

P3: A TRUE COPY OF THE RECEPT DATED 5/2/98

P4: A TRUE CLOPY OF REPORT DATED 24/9/2008 OF 5TH RESPONDENTS
P5: A TRUE COPY OF THE REPRESENTATION DATED 21/11/2007

P6: A TRUE COPY OF THE REPRPESENTATION DATED 9/1/2008

P7: A TRUE COPY OF THE REPRESENTATION DATED 22/10/08.

P8: A TRUE COPY OOF THE APPLICATION DATED 21/10/08.

P9: A TRUE COPY OF THE REPLY DATED 6/11/08

P10: A TRUE COPY OF THE REPLY DATED 17/1/09.

P11: A TRUE COPY OF THE LEDGER OF FILE NO. A6-1542/97

P12: A RUE COPY OF THE REPRESENTATION DATED 9/2/09.

REWSPONDENTS' EXTS:

EXT.R2(A) TRUE COPY OF THE REPORT NO. 85/09 DATED 11/6/09 OF THE VILLAGE OFFICER, SANTHANPARA.

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TRUE COPY

P.S. TO JUDGE

BABU MATHEW P. JOSEPH, J.

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W.P.(C).No. 12087 of 2009

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Dated this the 28th day of January, 2014

JUDGMENT

This writ petition has been filed for a direction to the 2nd respondent to confirm the auction sale conducted in respect of 10.75 acres of property comprised in survey No.192/1 of Santhanpara Village relating to Revenue Recovery File No.A6-1542/97 and to register that property in the name of the petitioner and for other reliefs.

2. Heard Shri. S.Sreekumar, the learned Senior Counsel appearing for the petitioner, and Smt. Susheela R.Bhat, the learned Special Government Pleader(Revenue) appearing for the respondents.

3. Learned Senior Counsel for the petitioner submits that certain amounts were due from one C.M.Mathew and

others to the Central Bank of India, Kumili Branch. Since those dues were not cleared by them, revenue recovery proceedings had been initiated against them. Accordingly, 10.75 acres of land comprised in survey No.192/1 of Santhanpara Village were put to auction on 6.1.1988. The petitioner had taken part in that public auction and he was the highest bidder. The bid amount was Rs.27,995/-. Accordingly, on 6.1.1998 itself, the petitioner remitted Rs.4193/-, being the 15% of the bid amount. Thereafter, the balance amount of Rs.23,762/- had also been remitted on 5.2.1998. Since the total bid amount had been remitted by the petitioner within the time stipulated, he was entitled to confirmation of that auction sale in his favour. Such an order confirming the auction sale has to be passed by the 2nd respondent District Collector. But, curiously enough, the file containing the necessary papers were not forwarded to the 2nd respondent by the 4th respondent for confirmation.

In spite of contacting the offices of various revenue authorities, the petitioner was thrown to be in darkness quite a long time. His representation before the revenue authorities did not get any response. In such a circumstance, the petitioner was compelled to file this writ petition for the reliefs prayed for.

4. Learned Senior Counsel further submits that Exts.P2 and P3 are dated 6.1.1998 and 5.2.1998 respectively showing the receipt of Rs.4,193/- and Rs.23,762/- remitted on those dates. Ext.P4 report dated 24.9.2008 sent by the 5th respondent Village Officer to the 4th respondent clearly shows (1) the various properties put to auction, (2) the petitioner was the highest bidder in the auction and (3) the remittance of Rs.4,193/- on 6.1.1998 and Rs.23,762/- on 5.2.1998 and their receipt numbers. Since the authorities concerned had not taken any steps for confirming the auction sale in favour of the petitioner, he had approached

the Public Information Officer, Office of the 4th respondent Special Tahsildar(Revenue Recovery), Nedumkandam, under the Right to Information Act with an application dated 21.10.2008 for getting the required details regarding the public auction of those properties for the purpose of getting confirmation. The Public Information Officer has issued Ext.P9 communication dated 6.11.2008 stating that the file No.A6-1542/97 mentioned in the application was not available and also intimating that the information would be furnished after finding out the file. But nothing happened thereafter. Therefore, one of the friends of the petitioner submitted an application for getting the details concerning file No.A6-1542/97 kept in the office of the 4th respondent. The Public Information Officer issued Ext.P11 reply along with Ext.P10 covering letter. Ext.P11 shows certain details regarding that file. Therefore, the learned Senior Counsel submits that the answer given in Ext.P9 is belied by the answer given in Ext.P11. He further submits that despite submitting Ext.P12 representation dated 9.2.2009 before the 2nd respondent District Collector, he has not considered that representation so far. He is the competent authority to go into all the details concerning the auction sale and other subsequent developments. Therefore, he prays for disposing of this writ petition with a direction to the 2nd respondent to consider and dispose of Ext.P12 on merits within a time frame after affording an opportunity of being heard to the petitioner including the opportunity to produce any documents or adduce other evidence in support of his case pleaded in Ext.P12.

5. Learned Special Government Pleader(Revenue) submits that the case pleaded by the petitioner cannot be accepted as a genuine one. Vigilance enquiry is going on against some of the revenue officials in respect of the matters containing in file No.A6-1542/97. Therefore, the

petitioner is not entitled to confirmation of the auction sale in his favour. So many contentions have been raised in the counter affidavit filed on behalf of the 2nd respondent. It is also stated in the counter affidavit that the petitioner had participated in the auction sale. Having heard both the sides, this Court is not in a position to arrive at a conclusion with regard to the disputed questions of facts raised by both the sides. It is for the 2nd respondent to consider the entire matter while considering Ext.P12. Even if the records are now with the Vigilance and Anti Corruption Bureau, the 2nd respondent will be free to call for those records also for examination.

6. In the result, the 2nd respondent is directed to consider and dispose of Ext.P12 representation submitted by the petitioner on merits in accordance with law as expeditiously as possible and, at any rate, within a period of four months from the date of receipt of a copy of this

judgment. Needless to say that the 2^{nd} respondent shall afford an opportunity of being heard to the petitioner including an opportunity to produce any documents or adduce other evidence in support of his case pleaded in Ext.P12. The petitioner is directed to produce a copy of this judgment along with a copy of this writ petition before the 2^{nd}respondent for compliance.

This writ petition is disposed of as above.

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

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True copy