

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C) .No. 8315 of 2015 (L)

PETITIONER(S) :

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1. SANTHOSHKUMAR N.A.,
S/O. K.AYYAPPAN,
NADUPARAMBIL HOUSE, VILOONI P.O.,
KOTTAYAM- 686 008.
 2. NOUSHA RANI @ NOUSHA SANTHOSH,
W/O. SANTHOSHKUMAR.N.A., NADUPARAMBIL HOUSE,
VILOONI P.O., KOTTAYAM- 686 008.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA

RESPONDENT(S) :

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1. THE VILLAGE OFFICER,
ARPOOKARA,
KOTTAYAM- 686 008.
 2. THE DETECTIVE INSPECTOR,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE, CBCID,
EOW II, ERNAKULAM AT HILL PALACE, TRIPUNITHURA-682 301.

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1: TRUE COPY OF SALE DEED NO. 233/2009 OF
S.R.O.ETTUMANNOOR DATED 19.01.2009.

EXHIBIT P2: A TRUE COPY OF THE SALE DEED NO. 1126/2012 OF
S.R.O.ETTUMANNOOR DATED 26.03.2012.

EXHIBIT P3: A TRUE COPY OF THE SALE DEED NO. 1499/2012 OF
S.R.O.ETTUMANNOOR DATED 26.04.2012.

EXHIBIT P4: A TRUE COPY OF THE SALE DEED NO. 3193/2013 OF
S.R.O.ETTUMANNOOR DATED 16.11.2013.

EXHIBIT P5: A TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT
TO THE 1ST RESPONDENT DATED 07.04.2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 8315 OF 2015
.....

Dated this the 24th March, 2015

J U D G M E N T

Grievance of the petitioners is mainly with regard to the refusal on the part of the Revenue Authorities in effecting mutation in respect of the property covered by Exts.P2 and P4 Sale Deeds and to enable the party concerned to satisfy the tax, in accordance with the relevant provisions of the Kerala Land Tax Act.

2. The sequence of events narrated in the writ petition shows that, the petitioners had purchased properties covered by Exts.P1 and P3 Sale Deeds of SRO, Ettumannoor. Subsequently, the petitioners sold the above properties as per Exts.P2 and P4 sale deeds. When the purchasers of the properties approached the revenue authorities for effecting Transfer of Registry in accordance with the Transfer of Registry Rules and to satisfy the land tax, the same was not acceded to, referring to some instructions given by the 2nd respondent/Detective Inspector as to the involvement of the petitioners in Crime No.57 of 2011 of the Kanjirappally Police Station. This made the petitioners to approach this Court by filing the writ petition.

3. Heard the learned Government Pleader as well.

4. The only insinuation made against the petitioners is with regard to the involvement of a crime, which made the 2nd respondent to issue instruction, to have the property virtually attached, without causing the mutation to be effected. The scope of such intervention at the instance of the Investigating Officer had come up for consideration before this Court in **Kuriachan Chacko Vs. State of Kerala [2012(3) KLT 600]**, wherein it was observed that neither the Investigating Officer, nor the Magistrate's Court does have any power under Section 102 of the Cr.P.C. to cause attachment of the property. The said decision is squarely applicable to the case in hand, submits the learned counsel.

5. The learned Government Pleader submits on instructions that, but for the existence of a criminal case, no other insinuating circumstance is stated as in existence with regard to the case in hand.

6. After hearing both the sides, this Court finds that in so far as the purchasers are the owners of the property concerned and there is no dispute with regard to the title, possession or

enjoyment, the purchasers are having every right to have the property mutated in terms of the Transfer of Registry Rules and to satisfy the tax accordingly.

7. It is also pointed out that, the petitioners are constrained to approach this Court because of the terms of sale and understanding with the purchasers of the property, so as to cause the Transfer of Registry Rules, in so far as the entries in the Thandaper Register still remain in the name of the petitioners.

8. In the above circumstances, there will be a direction to the first respondent/Village Officer to effect the transfer of registry in accordance with the relevant provisions of the Transfer of Registry Rules and accept the land tax from the persons concerned, as and when the same is tendered.

Either the petitioners or the beneficiaries shall produce a copy of this judgment, along with a copy of the writ petition, before the 1st respondent/Village Officer, for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE