IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 8681 of 2014 (I)

PETITIONERS:
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1. P.S. DHARMARAJAN, AGED 63 YEARS
S/O.P.C.SREEDHARAN, KANDOTHARA NIKARTHIL VEETTIL
KUMBALAM, KUMBALAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM.

2. T.K.SHEELA, AGED 60 YEARS
W/O.P.S.DHARMARAJAN, KANDOTHARA NIKARTHIL VEETTIL
KUMBALAM, KUMBALAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM.

BY ADV. SRI.K.T.SAJU

RESPONDENT(S)/RESPONDENTS:
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1. THE TAHASILDAR
TALUK OFFICE, KANAYANNUR
ERNAKULAM-682011.

2. THE VILLAGE OFFICER
KUMBALAM VILLAGE, KUMBALAM
ERNAKULAM-682304.

3. PRAKASAN.P.S. AGED 52 YEARS
S/O.P.C.SREEDHARAN, KANDOTHARA NIKARTHIL VEETIL
KUMBALAM, KUMBALAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM-682304.

R3 BY ADV. SRI.ALEXANDER GEORGE
R BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8681 of 2014 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:-TRUE COPY OF DOCUMENT NO.976/1993 OF S.R.O. MARADU, ERNAKULAM.

EXT.P2:-TRUE COPY OF THE BASIC LAND TAX RECEIPT ISSUED BY THE 2ND RESPONDENT ON 13/09/2001.

EXT.P3:-TRUE COPY OF THE BUILDING TAX RECEIPT DTD 24/2/2014 ISSUED BY THE KUMBALAM GRAMA PANCHAYATH.

EXT.P4:-THE TRUE COPY OF THE JUDGMENT DTD 30/8/2013 IN OS NO 568/2011 OF THE HONOURABLE SUB COURT IV, ERNAKULAM

EXT.P5:-THE TRUE COPY OF THE DECREE DTD 30/8/2013 IN OS NO.568/2011 OF THE HONOURABLE SUB COURT IV, ERNAKULAM

EXT.P6:-TRUE COPY OF THE SALE DEED NO 3401/2013 OF MARADU SRO, DTD 2/12/2013

EXT.P7:-TRUE COPY OF THE LAND TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DTD 24/2/2014.

EXT.P8:-TRUE COPY OF THE REQUEST LETTER DTD 20/3/2014, SUBMITTED BY THE PETITIONERS.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA TO JUDGE

K.T.SANKARAN, J.

W.P.(C) No.8681 of 2014

Dated this the 28th day of January, 2015

JUDGMENT

The relief prayed for in the Writ Petition is to issue a writ of mandamus commanding the second respondent-Village Officer to accept the land tax in respect of 3.76 cents of land owned by the petitioners. Though there are other prayers, the learned counsel for the petitioners submitted that the Writ Petitioner confines his relief to relief No.(i) and that the other reliefs can be reserved to be considered at the appropriate time.

2. The learned counsel for the third respondent submitted that the third respondent instituted a suit against the petitioners for specific performance of an agreement for sale in respect of 5 cents of land out of 26.5 cents of land owned by the

petitioners and that suit was decreed. The learned counsel for the petitioners submitted that against the judgment and decree in the suit for specific performance, the petitioners filed an appeal. Along with the appeal, the petitioners filed I.A.No.5249 of 2013 and obtained an order of stay of execution. The appeal is pending.

3. According to the petitioners, the Village Officer is reluctant to accept the revenue in respect of 5 cents of land on the ground that civil suit is pending between the petitioners and the third respondent.

4. In **Sudan v. State of Kerala** **(2013(4)KLT 563)**, a learned Single of this Court held that pendency of civil suit cannot be a bar with regard to the acceptance of land tax, unless specifically restrained from accepting the tax by virtue of any

order passed by the Court. In the present case, there is no such restraint order issued by any court. It is well settled that payment of revenue, by itself, would not confer any title on any person. There is a civil suit pending between the parties. Pending the civil suit even if one of the parties pays the land revenue, that would not enable him to succeed in the civil suit. In the present case, the Writ Petitioners continue to be the owners. Only on execution of the title deed in execution of the decree passed by the civil court, the third respondent would get title. The third respondent has no right to pay the revenue at present. Necessarily the petitioners have to pay the revenue even in respect of the land in dispute.

5. Accordingly, there will be a direction to the second respondent-Village Officer to accept the land revenue in respect of the land belonging to the petitioners and which is involved in

the civil suit between the petitioners and the third respondent. It is made clear that payment of revenue will not enable the petitioners to put forward any special right in respect of the property and the payment of revenue would be subject to the result of the civil suit pending between the parties.

K.T.SANKARAN
JUDGE

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