

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 8650 of 2015 (E)

PETITIONER(S):

**CAPUCHIN SOCIAL AND DEVELOPMENTAL ACTION SERVICE SOCIETY,
P.O.MELE CHOVVA, KANNUR-6,
REPRESENTED BY ITS MANAGING TRUSTEE,
FR.JOSE VATTUKULATHIL, S/O.ALEXANDER, AGED 42 YEARS,
RESIDING AT PAVANATMA CAPUCHIN PROVINCIALATE (SEVASRAM),
P.O.MELE CHOVVA, KANNUR-670006, KANNUR DISTRICT.**

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE TAHSILDAR
KANNUR TALUK, KANNUR-670001.**
- 3. THE VILLAGE OFFICER
ELAYAVOOR VILLAGE, P.O.MELE CHOVVA, KANNUR-670006,
KANNUR DISTRICT.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE LETTER OF APPOINTMENT DT.6-1-13 ISSUED BY THE PROVINCIAL MINISTER OF ORDER OF FRIARS MINOR CAPUCHINS.
- EXT.P2 : TRUE COPY OF THE SALE DEED DT.3-4-1998 REGISTERED AS DOCUMENT NO.895/1998 OF SRO KANNUR.
- EXT.P3 : TRUE COPY OF THE SALE DEED DT.16-10-1999 REGISTERED AS DOCUMENT NO.3064/1999 OF SRO KANNUR.
- EXT.P4 : TRUE COPY OF THE COMMON JUDGMENT DT.30-10-2004 IN OS 117/2002 AND OS 200/03 ON THE FILE OF PRINCIPAL SUB COURT, THALASSERY.
- EXT.P5 : TRUE COPY OF THE BASIC TAX RECEIPT DT.29-10-2004 IN RESPECT OF PROPERTY DESCRIBED IN EXT.P2
- EXT.P6 : TRUE COPY OF THE BASIC TAX RECEIPT DT.29-10-2004 IN RESPECT OF PROPERTY DESCRIBED IN EXT.P3.
- EXT.P7 : TRUE COPY OF THE JUDGMENT DT.1-11-2012 IN WPC 23510/12 ON THE FILE OF HIGH COURT OF KERALA.
- EXT.P8 : TRUE COPY OF THE LAND TAX RECEIPTS DT.24-7-2014 IN RESPECT OF PROPERTY IN EXT.P2.
- EXT.P9 : TRUE COPY OF THE LAND TAX RECEIPTS DT.24-7-2014 IN RESPECT OF PROPERTY IN EXT.P3.
- EXT.P10 : TRUE COPY OF THE CERTIFICATE OF AFFILIATION DT.12-7-2012 ISSUED BY THE ICSE (COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATION) NEW DELHI.
- EXT.P11 : TRUE COPY OF THE FORM OF POSSESSION CERTIFICATE PRESCRIBED BY THE ICSE.
- EXT.P12 : TRUE COPY OF THE RECEIPT DT.12-1-15 ISSUED TO THE PETITIONER FROM THE AKSHAYA CENTRE.
- EXT.P13 : TRUE COPY OF THE APPLICATION DT.12-1-15 FILED BY THE PETITIONER BEFORE THE R2.
- EXT.P14 : TRUE COPY OF THE LETTER DT.30-1-15 ISSUED BT THE R3 TO THE PETITIONER.

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**EXT.P15: TRUE COPY OF THE SCREEN SHOT EVIDENCING REJECTION OF
APPLICATION NO.11784570.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 8650 of 2015

Dated this the 1st day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"a. Mandamus directing the respondent No.3 to accept certified copy of Exhibit P21 and Exhibit P3 documents, and consider the petitioner's application for Possession Certificate, and issue the Possession Certificate in respect of land described therein and

b. Mandamus directing the second respondent to issue Possession Certificate to the petitioner in Ext.P11 form on production of such possession certificate issued by third respondent.

c. Any other relief that the Honourable Court may deem fit to grant in the circumstances of the case."

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. The grievance of the petitioner is mainly with regard to the lapse on the part of the concerned respondent in considering the request made by the petitioner for issuance of Possession Certificate in respect of the property covered by Exts. P2 and P3.

It is stated that with regard to the pendency of some civil dispute as per O.S. No. 117/2002 and O.S. 200/2003 before the Principal Sub Court, Thalassery, the tax payable under the Kerala Land Tax Act was refused to be accepted. As a matter of fact, Ext.P4 common judgment passed by the Civil Court in the above O.S stands in favour of the petitioner herein. But the aggrieved party has already approached this Court by way of appeal and that the matter is pending. There is no interim order against the petitioner in any manner with regard to the enjoyment of the property. Since tax was refused to be accepted, the petitioner had approached this Court by filing W.P.(C). No. 23510 of 2012, which was disposed on 1.11.2012, directing the concerned respondent to accept the tax as specified therein.

4. Pursuant to the said verdict, the petitioner has remitted the tax, which was accepted as borne by Exts. P8 and P9 receipts. In connection with further activities of the petitioner, it has become necessary to obtain current Possession Certificate, so as to procure financial assistance from different corners. With this intent the petitioner approached the Revenue authorities, but

the request has not been acceded to, which in turn is under challenge in this writ petition.

5. After hearing both the sides, since there is no dispute with regard to the possession of the property and as there is no restrictive orders in considering the application for issuance of possession Certificate, and further since tax has been subsequently accepted as borne by Exts. P8 and P9 pursuant to Ext.P7 judgment, this Court finds it fit and proper to direct the 3rd respondent to issue a Possession Certificate, as sought for, subject to satisfaction of other requirements in accordance with law. This shall be done at the earliest, at any rate, within 'two weeks' from the date of receipt of a copy of this judgment. It is made clear that this Court has not expressed any opinion as to the rights and liberties of the parties concerned in the pending litigations.

6. On production of the Possession Certificate and meeting the other requirements in accordance with law, necessary certificate in the prescribed form as per Ext.P11 shall be issued by the 2nd respondent, subject to satisfaction of the relevant

terms/conditions. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-