

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 12766 of 2013 (U)

PETITIONER :

**V.MOIDEEN, S/O.BAVACHI,AGED 61 YEARS,
VETTIYATTIL HOUSE, THIRURANGADI TALUK,
MOONNIYUR P.O, MALAPPURAM- 676 311**

**BY SMT.SUMATHY DANDAPANI,SENIOR ADVOCATE
ADVS. SRI.MILLU DANDAPANI
SRI.RAZA M FAZAL**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
MALAPPURAM -676 505**
- 2. THE TAHSILDAR,
THIRURANGADI TALUK OFFICE,
THIRURANGADI- 676 306**
- 3. THE VILLAGE OFFICER,
MOONNIYUR VILLAGE, MALAPPURAM DISTRICT -676 311**

BY SR GOVERNMENT PLEADER SRI.R.PADMARAJ

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE MORTGAGE DEED NO.60 OF 1918 DATED 8-1-1918
EXECUTED IN FAVOUR OF MOOSA MAPPILA
- EXHIBIT P2 TRUE COPY OF THE TAX RECEIPT NO.71019 DATED 22-02-2010 ISSUED
BY THE 3RD RESPONDENT TO THE PETITIONER
- EXHIBIT P3 TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE
THE 1ST RESPONDENT DATED 17-10-2012
- EXHIBIT P4 TRUE COPY OF A REPLY RECEIVED FROM THE PUBLIC INFORMATION
OFFICER AND ADDL.TAHSILDAR,TIRURANGADI DATED 7-1-2013
- EXHIBIT P5 TRUE COPY OF A REPLY RECEIVED FROM THE WAKF BOARD DATED
24-04-2013
- EXHIBIT P6 TRUE COPY OF THE REPLY DATED 4-1-2013 ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER
- EXHIBIT P7 TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 4-7-2012
ISSUED BY SUB REGISTRAR, PARAPPANAGADI
- EXHIBIT P8 TRUE COPY OF THE RELEVANT PAGE OF THE RESURVEY
SETTLEMENT REGISTER ISSUED BY THE
SUPERINTENDENT, REGIONAL ARCHIEVES,KOZHIKODE
DATED 22-07-1935

RESPONDENT(S)' EXHIBITS

- R3(A) TRUE COPY OF THE BTR
- R3(B) TRUE COPY OF POSSESSION REGISTER
- R3(C) TRUE COPY OF THE DOCUMENT NO.936/1962

/TRUE COPY/

P.S.TO JUDGE

A.M. SHAFFIQUE, J.

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W.P. (C) No. 12766 of 2013

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Dated this, the 28th day of October, 2015

J U D G M E N T

Petitioner has approached this Court seeking for the following reliefs;

“(i) call for the records leading to Exhibits P1 to P8 and peruse the same,

(ii) issue a writ of Certiorari or any other writ, direction or order quashing Exhibit P6 issued by the 3rd respondent.

(iii) issue a Writ of mandamus or any other writ, direction or order commanding the respondents to receive tax in respect of the property of the petitioner having an extent of 2 acres and 64 cents in survey No.198/1 of Mooniyur Village, in Tirurrangadi Taluk, Malappuram District”.

2. Petitioner claims to be the owner in possession of an extent of 2 acres 64 cents of land in Sy.No.198/1 of Mooniyur Village. The complaint of the petitioner is that he is not permitted to pay land tax for the property.

3. Counter affidavit has been filed by the respondents *inter alia* stating that the petitioner does not have title to the

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property and as per the basic tax register available with the village, the property is in the thandaper of Wakf. Being a Wakf property, the petitioner is not entitled to pay land tax.

4. Taking into consideration the dispute raised in the present writ petition, I am of the view that the question regarding dispute on title cannot be decided by this Court in a proceedings under Article 226 of the Constitution of India. According to the Government, the property is Wakf property, if so, the remedy of the petitioner is to approach the appropriate Court/Tribunal to resolve such dispute and thereafter approach the revenue authorities for payment of tax.

In the result, this writ petition is disposed of reserving right of the petitioner to approach the Court/Tribunal for deciding the issue raised by the respondents and thereafter approach the revenue authorities for payment of land tax.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

28/10/2015

//True Copy//

P.S to Judge