IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 10263 of 2015 (G)

PETITIONER(S):

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1. TOMY GEORGE AGED 54 YEARS
S/O.GEORGE, KAITHACKAL HOUSE, PINDIMANA
KOTHAMANGALAM, ERNAKULAM DISTRICT - 686 681.

2. LILLY TOMY AGED 51 YEARS
W/O.TOMY GEORGE, KAITHACKAL HOUSE, PINDIMANA
KOTHAMANGALAM, ERNAKULAM DISTRICT - 686 681

3. ANOOP TOMY AGED 22 YEARS
S/O.TOMY GEORGE, KAITHACKAL HOUSE, PINDIMANA
KOTHAMANGALAM, ERNAKULAM DISTRICT - 686 681.

BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE

RESPONDENT(S):

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1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE, KERALA GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. THE DISTRICT COLLECTOR, COLLECTORATE,
KAKKANAD, ERNAKULAM - 682 030.

3. THE TAHSILDAR
TALUK OFFICE, KOTHAMANGALAM
ERNAKULAMDISTRICT - 686 681.

4. THE ADDITIONAL TAHSILDAR
TALUK OFFICE, KOTHAMANGALAM
ERNAKULAM DISTRICT -686 681.

5. THE VILLAGE OFFICER
PINDIMANA VILLAGE, ERNAKULAM DISTRICT -686 681.

6. PINDIMANA GRAMA PANCHAYATH
PINDIMANA P.O., ERNAKULAM DISTRICT -686 92
REPRESENTED BY ITS SECRETARY

7. THE DEPUTY TAHSILDAR
(REVENUE RECOVERY), KOTHAMANGALAM
ERNAKULAM DISTRICT - 686 661

BY ADV.SRI.JOSEPH GEORGE, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10263 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT.P-1: COPY OF SALE DEED NO.5210 DATED 10.9.1986

EXHIBIT.P-2: COPY OF LAND TAX RECEIPT DATED 3.10.2012

EXHIBIT.P-3: COPY OF LAND TAX RECEIPT DATED 5.4.2011

EXHIBIT.P-4: COPY OF SETTLEMENT DEED NO.115/1/15 DATED 12.1.2015 (REGISTERED ON 13.1.2015) OF KOTHAMANGALAM SRO EXECUTED BY THE FIRST PETITIONER IN FAVOUR OF THE 2ND PETITIONER

EXHIBIT.P-5: COPY OF SETTLEMENT DEED NO.235/1/15 DATED 23/1/2015 OF KOTHAMANGALAM SRO EXECUTED BY THE FIRST PETITIONER IN FAVOUR OF THE 3RD PETITIONER

EXHIBIT.P-6: COPY OF RECEIPT DATED 4.3.2015 ISSUED FROM THE VILLAGE OFFICE, PINDIMANA

EXHIBIT.P-7: COPY OF REPRESENTATION DATED 10.3.2015 SUBMITTED BY THE FIRST PETITIONER BEFORE THE 3RD RESPONDENT

EXHIBIT.P-8: COPY OF COMMUNICATION DATED 17.3.2015 ISSUED BY THE 4TH RESPONDENT TO THE FIRST PETITIONER

EXHIBIT.P-9: COPY OF THE DEMAND NOTICE DATED 23.7.2008 ISSUED BY THE 5TH RESPONDENT

EXHIBIT.P-10: COPY OF FROM 10 DEMAND NOTICE DATED 4.3.2011 ISSUED BY THE 7TH RESPONDENT TO THE PETITIONER

EXHIBIT.P-11: COPY OF FROM 1 DEMAND NOTICE DATED 23.9.2014 ISSUED BY THE 7TH RESPONDENT TO THE FIRST PETITIONER

EXHIBIT.P-12: COPY OF FROM 10 DEMAND NOTICE DATED 23.9.2014 ISSUED BY THE 7TH RESPONDENT TO THE FIRST PETITIONER

EXHIBIT.P-13: COPY OF THE JUDGEMENT DATED 14.12.2012 PASSED BY THIS HON'BLE COURT IN WPC NO.26565/12

EXHIBIT.P-14: COPY OF THE JUDGEMENT DATED 23.1.2015 PASSED BY THIS HON'BLE COURT IN WPC NO.10076/14

RESPONDENT(S)' EXHIBITS NIL

R.AV

//TRUE COPY//

PA TO JUDGE

P.R. RAMACHANDRA MENON J.
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W.P.(C) No. 10263 of 2015
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Dated, this the 7th day of April, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers :

> "(i) Issue a writ of mandamus of any other appropriate writ, order or direction commanding the respondents 2 to 5 to effect mutation in respect of the property covered by Exhibits P4 and P5 in favour of the petitioners 2 and 3 and to accept land tax in respect of the above said property from petitioners 2 and 3.
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> (ii) Mould and grant such other reliefs which this Hon'ble Court deems just and necessary and that may be prayed for by the petitioner while hearing the W.P.

2. The 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. P4 and P5 settlement deeds. The learned counsel for the petitioners submits that flow of title is clearly discernible from Exts. P4 and P5. It is stated that the

concerned respondent is not accepting tax with reference to the pendency of revenue recovery proceedings.

2. Heard the learned Government Pleader as well.

3. It has been declared by this Court in **Thulasibhai C.C. Vs. State of Kerala [2010 (4) KHC 142]** that mutation is for the purpose of enabling the State to collect land revenue from the person in possession and will not confer any title to the land, and hence the attachment order, if any, is not a ground to refuse the application for mutation. The petitioner has produced Ext. P13 and P14 judgments passed by this Court, following the decision cited supra. It has been held by this Court in **Joseph Kurian Vs. Village Officer [2010 (3) KLT 251]** that attachment over the property cannot be a ground for not accepting the basic tax for effecting mutation as per the Transfer of Registry Rules, 1966.

4. Considering the facts and circumstances, this Court finds that the petitioners are entitled to succeed. Accordingly, the fifth respondent is directed to reconsider the matter and take necessary steps to effect mutation of the property in the revenue records, and to accept land tax as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

The petitioners shall produce a copy of this judgment along with copy of the writ petition before the 5th respondent for further steps.

The Writ Petition is disposed of.

Sd/-

P. R. RAMACHANDRA MENON,
(JUDGE)

kmd