

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 10584 of 2015 (W)

PETITIONER:

**SOUMYA, ALIKKAL VEEDU,
EZHUMANGAD P.O, OTTAPPALAM,
NOW RESIDING AT 'THIRUVONAM'(ALIKKAL)
THEKKE VAVANNOOR, KOOTTANAD, PALAKKAD.**

**BY ADVS.SMT.K.P.SANTHI
SRI.RILGIN V.GEORGE
SMT.E.U.DHANYA**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRTARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR,
THRISSUR - 680 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- TRUE COPY OF THE PETITIONER'S APPEAL DATED 22/11/2012 SUBMITTED TO 2ND RESPONDENT.
- P2:- TRUE COPY OF THE REPRESENTATION DATED 1/9/2014 SUBMITTED TO 2ND RESPONDENT.
- P3:- TRUE COPY OF THE COMMUNICATION DATED 23/4/2013 OF THE ADDL. TAHSILDAR, THALAPPILLY TALUK.
- P4:- TRUE COPY OF THE ORDER DATED 4/3/2015 OF THE 2ND RESPONDENT.
- P5:- TRUE COPY OF THE ORDER DATED 22/11/2012 OF THE 2ND RESPONDENT.
- P6:- TRUE COPY OF THE RELEVANT PAGE OF THE FAIR VALUE REGISTER.
- P7:- TRUE COPY OF THE JUDGMENT DAETD 13/10/2014 IN WPC NO.9768 OF 2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J

W.P(C) No.10584 of 2015

Dated this the 29th day of May, 2015

J U D G M E N T

The petitioner is the owner in possession and enjoyment of 86.20 Ares of land comprised in Survey No.696 of Deshamangalam Village, Thalapilly Taluk, Thrissur District. The said property is said to be comprised of hilly tracts without any proper road access. The fair value fixation of the land was made under the Stamp Act, 1959 as Rs.63,000/- per Are while, the adjacent land having similar lie and nature was alleged to have been valued at Rs.15,000 to Rs.25,000 per are. The petitioner hence filed Ex.tP1 appeal under sub-section (4) of Section 28A of the Stamp Act, in which Ext.P4 order was passed and which is challenged herein.

2. I have heard the learned counsel for the

petitioner as also the learned Government Pleader.

3. Obviously on an appeal being filed, the Revenue Divisional Officer had sought for a report from the Additional Tahsildar, Thalapilly Taluk as is provided under 28A(2). Since the provision under subsection(2) of Section 28A of the Stamp Act provides for fixation of the value itself after obtaining such a report. By Ext.P3, the Additional Tahsildar, Thalapilly Taluk had examined the issue and inspected the property and found that three properties, comprised in Survey Nos. 372/1, 698/2 and 696, being comprised of hilly tracts could be fixed with fair value of Rs.25,000/-.

4. After having looked into the said report, it was found that since the property evidently did not have road access, the petitioner's property in Sy. No. 696 of Desamangalam village could be fixed with fair value of

Rs.40,000/-, since it is a “residential plot without vehicular access”. At the outset, it is to be noticed Ext.P3 report does not categorise the subject land as a residential one. In fact, the specific finding in Ext.P3 report is that the property comprised in the survey numbers, which were under inspection, were comprised of hilly tracts with boulders. Ext.P4, hence, has to have been found to be passed without any application of mind. The finding that the petitioners property is a residential plot does not emanate from the report. In fact, the finding is stated to be based on Ext.P5 with respect to the adjacent property which was challenged and remanded for fresh consideration in Ext.P7. In such circumstances, it is only proper that Ext.P4 be set aside and the appellate authority, the 2nd respondent herein be directed to consider the appeal afresh. In doing so, this Court cannot, but notice that there is a further anomaly in

Ext.P3, insofar as reporting that the fair value Rs.25,000/- would be eminent for all the three properties inspected thereon, but two having road access and one having no road access.

5. In such circumstance, it is only appropriate that the District Collector call for a fresh report pointing out the specific anomaly noticed by this Court from the Additional Tahsildar, Thalapilly Taluk and consider the appeal of the petitioner in accordance with law. The same shall be done within a period of three months from the date of receipt of a copy of this judgment.

Writ petition allowed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge