

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. 10715 of 2015 (L)

PETITIONER(S) :

1. **A.R.SANTHOSH KUMAR, AGED 47 YEARS**
S/O. RAMAKRISHNAN NAIR, ATHIPPILLIL HOUSE
KUTHUKUZH P.O., VALIYAPARA, KOTHAMANGALAM
2. **JOBHY VARGHESE, AGED 47 YEARS**
S/O. VARGHESE, PARAPPILLIL HOUSE, RAMALLOOR
KOTHAMANGALAM.

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENT(S) :

1. **STATE OF KERALA**
REP. BY ITS SECRETARY, DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001
2. **THE DISTRICT COLLECTOR,**
CIVIL STATION, KAKKANAD, ERNAKULAM – 680032.
3. **THE REVENUE DIVISIONAL OFFICER,**
MUVATTUPUZHA – 686661.
4. **THE TAHSILDAR**
KOTHAMANGALAM 686691.
5. **THE VILLAGE OFFICER,**
KOTHAMANGALAM – 686691.
6. **THE SUB REGISTRAR,**
SUB REGISTRY OFFICE,
KOTHAMANGALAM – 686 691.
7. **THE SECRETARY,**
KOTHAMANGALAM MUNICIPALITY,
KOTHAMANGALAM - 686691.

R1 TO R6 BY SR. GOVT. PLEADER SRI. JOSEPH GEORGE

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

Mn

...2/-

WP(C).No. 10715 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P1: TRUE COPY OF THE SALE DEED NO.2389/2012 OF KOTHAMANGALAM
 S.R.O.**

**EXT.P2: TRUE COPY OF THE NOTICE DATED 23.7.2013 OF THE 3RD
 RESPONDENT.**

EXT.P3: TRUE COPY OF THE SALE DEED DATED 28.3.2015.

**EXT.P4: TRUE COPY OF THE ORDER DATED 01.10.2013 OF THE 3RD
 RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 10715 of 2015

Dated this the 1st day of April, 2015

JUDGMENT

The refusal on the part of the 6th respondent in effecting registration of Ext.P3 sale deed, made the petitioners to approach this Court with the following prayers:

“i. Issue appropriate writ, order or direction, quashing Ext.P4.

ii. Issue a writ of mandamus or any other appropriate writ order or direction directing the 6th respondent to receive and register Ext.P3 sale deed ignoring Ext.P4.

iii. Issue such other appropriate writ, order or direction that this Honourable Court may deem fit and proper in the facts and circumstance of the case.”

2. The learned counsel for the petitioners points out that, such a course has been pursued by the 6th respondent with reference to Ext.P4 instruction issued by the RDO to the effect that, in respect of the properties coming within the purview of the Act 28 of 2008, no registration shall be effected, nor shall there be any step for causing the mutation to be effected or for remittance of tax. This is per se wrong and unsustainable in all respects as not supported by any legal provision or binding

precedents and hence the challenge.

3. Heard the learned Government Pleader as well.

4. After hearing both the sides, this Court finds that, if at all any violation is there on the part of the petitioners with regard to the alleged illegal filling of the paddy land, it is open for the competent authority to take appropriate steps in accordance with the provisions of the Act. But in so far as the ownership, possession and title are not under dispute, the petitioners are entitled to satisfy tax in respect of the concerned property under the Kerala Land Tax Act after effecting mutation in terms of the Transfer of Registry Rules.

5. In the said circumstance, Ext.P4 will stand set aside. The 6th respondent is directed to effect necessary changes for causing the transfer of registry to be endorsed in terms of the Transfer of Registry Rules. The concerned respondent shall accept the tax payable by the petitioner in respect of the concerned property, in terms of Kerala Land Tax Act, as and when the same is tendered. It is further made clear that, this will not bar the way of the concerned respondent in proceeding

against the petitioner, if at all any offence is committed by the petitioner with reference to the relevant provisions the Act 28 of 2008.

6. The proceedings as above shall be finalized after hearing the petitioner at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment. 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.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE.

kp/-

Paragraphs 4 and 5 of the judgment dated 1.4.2015 in W.P. (C). No. 10715/2015 are corrected and modified as follows, vide order dated 25.05.2015:

“4. After hearing both the sides, this Court finds that, if at all any violation is there on the part of the petitioners with regard to the alleged illegal filling of the paddy land, it is open for the competent authority to take appropriate steps in accordance with the provisions of the Act. But in so far as the ownership, possession and title are not under dispute, the petitioners are entitled to get the relief sought for, ie. to get Ext.P3 sale deed registered.

5. In the said circumstance, Ext.P4 will stand set aside. The 6th respondent/Sub Registrar is directed to register Ext.P3 sale deed in accordance with law. It is further made clear that this will not bar the way of the concerned respondent in proceeding against the petitioners, if at all any offence is committed by the petitioners with reference to the relevant provisions of the Act 28 of 2008”.

sd/-
Registrar (Judicial)