IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 17038 of 2012 (D)

PETITIONER(S):

SELVANAYAKAM,
S/O.LATE, GURUSWAMI, AGED 56 YEARS, KONGAMPARA,
KOZHIPPARA P.O., PUDUSSERY EAST VILLAGE,
PALAKKAD TALUK, PALAKKAD DIST.

BY ADVS.SRI.T.V.GEORGE
SMT.DENNIS VARGHESE

RESPONDENT(S):
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1. THE TAHSILDAR,
TALUK OFFICE, PALAKKAD - 678 621.

2. THE VILLAGE OFFICER,
PUTHUSSERY EAST VILLAGE, PUTHUSSERY P.O,
PALAKKAD - 678 621.

R BY ADV. GOVERNMENT PLEADER SRI.BIJU MEENATOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD

WP(C).No. 17038 of 2012 (D)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF PURCHASE CERTIFICATE NO.943/77 DATED 29/3/77 ISSUED BY THE SPECIAL TAHSILDAR, LAND REFORMS NO.IV, COYALMANNAM.

EXHIBIT P2: TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 1980-81 ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER'S LATE FATHER.

EXHIBIT P2(A): TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 1981/82, ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER'S LATE FATHER.

EXHIBIT P2(B): TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 1983/84, ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER'S LATE FATHER.

EXHIBIT P2(C): TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 1996/97, ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER'S LATE FATHER.

EXHIBIT P2(D): TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 1997-1998, ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER'S LATE FATHER.

EXHIBIT P3: TRUE COPY OF PARTITION DEED NO.859/99 OF SUB REGISTRY OFFICE, PALAKKAD.

EXHIBIT P4: TRUE COPY OF DEATH CERTIFICATE OF PETITIONER'S FATHER-GURUSWAMY DATED 25/09/2000.

EXHIBIT P5: TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 2003-04, ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER.

EXHIBIT P5(A): TRUE COPY OF TAX PAID RECEIPT FOR THE PERIOD 2008-2009 ISSUED BY THE VILLAGE OFFICER, PUTHUSSERY EAST IN FAVOUR OF PETITIONER.

RESPONDENT'S EXHIBITS

EXHIBIT R1(A): A TRUE PHOTOCOPY OF THE LB-713/72 DATED 30.07.1977 OF THE TALUK LAND BOARD, PALAKKAD.

//TRUE COPY//

P.A. TO JUDGE

AD

K.VINOD CHANDRAN, J.

W.P(C) No.17038 of 2012

Dated this the 4th day of August, 2015

JUDGMENT

The petitioner is said to have obtained 01 Acre 56 cents(62.42 Ares) of land in Survey No.1308/1 B in Re-Sy No.303/2 in Puthusserry East Village, Palakkad Taluk by virtue of Ext.P3 partition deed which was executed by all the legal heirs of the petitioner's father by name Guruswamy. The said Guruswamy is said to have been the tenant of one Sri.Thirugnanam Chettiar. Guruswamy obtained purchase certificate, with respect to the said land under The Kerala Land Reforms Act, 1963 as per Ext.P1.

2. The payment of tax with respect to the land by the father of the petitioner is evidenced by Ext.P2 series of receipts. The petitioner acquired the said property in a partition as evidenced at Ext.P3. The petitioner also had been paying the tax which is evidenced in Ext.P5 series of receipts. The petitioner has

filed the above writ petition feeling aggrieved with the fact that, the respondents have now refused to accept the property tax.

3. In similar circumstance, specifically with respect to the lands owned by Sri.Thirugnanam Chettiar, this Court had considered the issue with respect to other properties which were also purchased by tenants under The Kerala Land Reforms Act, 1963. The specific finding in the said judgment is reflected in Paragraph 4,5,6 and 7 of W.P(C) No. 17381/2011, which is extracted hereunder:

> *4. "Going by the stand taken by the 1st respondent in their statement, an extent of 55.93 acres of land was directed to be taken over as excess land vide proceedings of the Taluk Land Board against one Thirugnanam Chettiar by proceedings No.LB-712/73 dated 30.07.1977. The properties comprised in Re-Survey Nos.310/4 and 314/11 of Puthussery East Village are within the ceiling limits of excess lands already taken possession of from Thirugnanam Chettiar, against whom ceiling proceedings were initiated.*
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> *5. As per the statement filed by the 1st respondent, when possession of the aforesaid 55.93 acres of land was taken over, no mention was made regarding the occupants in the Mahazar. However, as per the re-survey records published and implemented in Puthussery Village, various extents already taken over were found to be in possession of various occupants and tax was also seen remitted for the various extents. According to the the 1st respondent, the above discrepancies have arisen due to the taking over of land in the hands of*

various claimants and that, a proper enquiry has to be conducted and the discrepancies have to be sorted out and that steps have already been taken before the Taluk Land Board for appropriate action. However, since the petitioner is remitting land tax for a long time, the 1st respondent has permitted her to remit the land tax provisionally subject to the directions of the Taluk Land Board in this regard.

6. In view of the above stand taken by the 1st respondent, this writ petition is disposed of directing the 1st respondent to accept land tax from the petitioner for the property covered by Ext.P1 purchase certificate.

7. But it is made clear that such remittance of land tax will be purely provisional and subject to the directions of the Taluk Land Board in this regard.

It is also made clear that, this Court has not expressed anything on the merits of the case, touching possession,ownership and enjoyment of the petitioner over the land in question."

3. Herein also identical situation arises. In such circumstance, the very same direction shall apply. The land tax of the property which is covered by Ext.P1 and alloted to the petitioner by Ext.P3 shall be accepted from the petitioner.

The writ petition would stand allowed.

Sd/-
K.VINOD CHANDRAN
JUDGE

AD