

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

W.P.(C).No. 16798 of 2013 (Y)

PETITIONER(S):

1. ABDULLA, AGED 65 YEARS,
S/O.IBRAHIM, TRADER, RESIDING AT ASAREENTAVIDA,
CHORODE VILLAGE, MUTTUNGAL AMSOM, POST MUTTUNGAL WEST,
VATAKARA TALUK, KOZHIKODE DISTRICT,
KERALA STATE-673 106.
2. KUNHIMARIYAM, AGED 58 YEARS,
D/O.KUNHABDULLA, HOUSE WIFE, RESIDING AT ASAREENTAVIDA,
CHORODE VILLAGE, MUTTUNGAL AMSOM, POST MUTTUNGAL WEST,
VATAKARA TALUK, KOZHIKODE DISTRICT,
KERALA STATE-6731 06.

BY ADVS.SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENT(S):

1. THE DISTRICT SUPERINTENDENT OF SURVEY
OFFICE OF THE SUPERINTENDENT OF SURVEY,
KOZHIKODE-673 020.
2. THE TAHSILDAR,
VATAKARA-673 101.
3. THE VILLAGE OFFICER,
CHORODE-673 106.
4. THE RESURVEY SUPERINTENDENT,
OFFICE OF THE RESURVEY SUPERINTENDENT,
VATAKARA-673 101.
5. THE STATE OF KERALA,
WITH ADDRESS FOR SERVICE- THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM-695,001.
6. BEEVI, AGED 60 YEARS,
D/O.AMMAD, HOUSE WIFE, RESIDING AT KUTTIHASSANTAVIDA,
CHORODE VILLAGE, MUTTUNGAL AMSOM, POST MUTTUNGAL WEST,
VATAKARA TALUK, KOZHIKODE DISTRICT,
KERALA STATE-6731 06.

BY GOVERNMENT PLEADER, SRI. ARUN KUMAR M.R. KARANAVAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-11-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1: TRUE COPY OF THE DEED OF ASSIGNMENT 711 OF VATAKARA SRO DATED 19TH MAY 1970.
- EXHIBIT-P2: TRUE COPY OF THE DEED DATED 23RD NOVEMBER 1996.
- EXHIBIT-P3: TRUE COPY OF DEED DATED 26TH NOVEMBER 1996.
- EXHIBIT-P4: TRUE COPY OF THE DEED DATED 16TH OCTOBER 1998.
- EXHIBIT-P5: TRUE COPY OF THE FIELD PLAN ISSUED BY THE 3RD RESPONDENT FOR THE PROPERTY HELD BY THE WRIT PETITIONER.
- EXHIBIT-P6: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT FIXING THE BOUNDARY UNDER THE SURVEY BOUNDARY RULES TO THE WRIT PETITIONER.
- EXHIBIT-P7: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE 6TH RESPONDENT.
- EXHIBIT-P8: TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT IN APPEAL BY THE 6TH RESPONDENT.
- EXHIBIT-P9: TRUE COPY OF THE SURVEY PLAN ISSUED BY 3RD RESPONDENT DATED 22.11.2012.
- EXHIBIT-P10: TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY 3RD RESPONDENT TO THE WRIT PETITIONER DATED 11.6.2012.
- EXHIBIT-P11: TRUE COPY OF THE REPRESENTATION DATED 10.5.2013 ADDRESSED TO THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

SHAJI P. CHALY, J.

W.P.(C) No.16798 of 2013

Dated this the 27th day of November, 2015

JUDGMENT

This writ petition is filed by the petitioners seeking direction to the Respondents to cause necessary changes in the land records by separately showing the property held by the petitioners and the property held by the 6th Respondent consistent with the boundaries fixed in Exts.P6, P7 and P8 (mistakenly shown as Ext.P9 in the writ petition).

2. Heard the learned counsel for the petitioners and the learned Government Pleader for Respondents 1 to 5.

3. Petitioners are the owners of properties comprised in Re-survey No.18/3 of the Muttungal Amsom within the limits of Chorode Village under registered assignment deed 711 of 1970 of the Vatakara Sub Registry Office dated 19.05.1970. So also, the 6th Respondent has title to certain immovable property in Re-survey No.18/2 under Exts.P2, P3 and P4 title deeds. Petitioners as well as the 6th Respondent have filed application for demarcating their respective boundaries, consequent to which Exts.P6 and P7 statutory notices were

issued and the boundaries were fixed in accordance with the title deeds of the respective parties. However, aggrieved, 6th Respondent has taken the matter in appeal before the 1st Respondent. Thereupon, after hearing the parties, 1st Respondent has confirmed the boundary fixed by the Tahsildar. This has become final. Now the case projected by the petitioners is that even though the dispute with regard to the boundary has become concluded, while conducting Re-survey, the properties of the petitioners as well as the 6th Respondent were clubbed together in Re-survey No.16/29. This has caused serious prejudice to the petitioners as well as the 6th Respondent.

4. To rectify the mistake crept in, 1st petitioner has submitted Ext.P11 before the 4th Respondent and the same is pending consideration. Even though petitioners have made sincere efforts, 4th Respondent has not cared to pass any orders on the same. It is thus aggrieved by the inaction of the 4th Respondent, this writ petition is filed by the petitioners.

5. Having considered the rival submissions, this Court finds that since the dispute whatever existed was rectified consequent on the applications made by the petitioners and

the 6th Respondent, the action of the 4th Respondent by again clubbing the said properties in a new survey number is not fair and proper. Anyhow, the grievance voiced by the petitioners in this writ petition is pending consideration before the 4th Respondent and therefore it is for the 4th Respondent to take a decision in the matter in accordance with law, after taking into account the grievance put forth by the 1st petitioner in Ext.P11.

6. Therefore, there will be a direction to the 4th Respondent to pass orders on Ext.P11 taking into account all the attendant circumstances and after providing an opportunity of hearing to the petitioners as well as the 6th Respondent, within a period of two months from the date of receipt of a copy of this judgment. In order to appreciate the contentions of the petitioners in a proper manner, petitioners are directed to produce a copy of this writ petition along with the attendant documents before the 4th Respondent. The whole exercise shall be completed as ordered above.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

St/-
27.11.2015