

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 15869 of 2015 (G)

PETITIONER(S):

1. HABEEB RAHMAN.T.M., AGED 56 YEARS,
S/O. MUSTHAFA HAJI, THOTTUKADAVIL HOUSE,
NILAMBUR R.S. P.O, RAMANNKUTHU VIA,
MALAPPURAM DISTRICT.
2. T.M. MUKTHAR AHMED, AGED 71 YEARS,
S/O. MUSTHAFA HAJI, THOTTUKADAVIL HOUSE,
NILAMBUR R.S., P.O, RAMANKUTHU VIA,
MALAPPURAM DISTRICT

**BY ADVS.SRI.K.R.RAJKUMAR
SRI.V.P.PRASAD**

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIATE, THIRUVANANTHAPURAM -695 001
2. SECRETARY, HOME DEPARTMENT,
SECRETARIATE, THIRUVANANTHAPURAM -695 001
3. SECRETARY,
PUBLIC WORKS DEPARTMENT, THIRUVANANTHAPURAM -695 001
4. STATE POLICE CHIEF,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM -695 001
5. LAND REVENUE COMMISSIONER,
LAND REVENUE COMMISSIONERATE, VIKAS BHAVAN,
THIRUVANANTHAPURAM -695 033
6. DISRTRICT COLLECTOR,
COLLECTORATE, MALAPURAM- 676 505
7. REVENUE DIVISIONSL OFFICER,
MALAPPURAM- 676 505
8. DISTRICT POLICE CHIEF,
DISTRICT POLICE OFFICE, MALAPPURAM -676 505

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9. DEPUTY SUPERINTENDENT OF POLICE,
O/O. SUPERINTENDENT OF POLICE,
MALAPPURAM- 676 505
10. THAHASILDAR,
THALUK OFFICE, THIRUR- 676 101
11. SUB REGISTRAR,
SUB REGISTRARS OFFICE, THIRUR -676 101
12. VILLAGE OFFICER,
THRIKKANDIYUR VILLAGE OFFICE,
THRIKKANDIYOOR, MALAPPURAM- 676 104
13. THE SECRETARY,
TIRUR MUNICIPALITY, TIRUR- 676 101

*ADDL.R14 & R15 IMPEADED

*ADDL.R14: CHAIRMAN AND MANAGING DIRECTOR,
POLICE CONSTRUCTION CORPORATION,
CHANDRASEKHARAN NAIR STADIUM,
THIRUVANANTHAPURAM-695 001

*ADDL.R15: THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
TIRUR WEST DIVISION, MALAPPURAM-676 101

*ADDL.R14 & R15 ARE IMPEADED AS PER ORDER DATED 11/12/2015 IN
IA.NO.17871/2015.

R1 TO R12 BY GOVERNMENT PLEADER SRI.M.R.ARUNKUMAR
R13 BY ADVS. SRI.P.K.VIJAYAMOHANAN
SRI.NISHIL.P.S.

ADDL.R15 BY ADV. SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-12-2015,ALONG WITH WP(C). NO.35048 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE ASSIGNMENT DEED TRUE COPY OF THE
ASSIGNMENT DEED NO. 431/1957 DATED 23.2.1957
- EXHIBIT P2: TRUE COPY OF THE REGISTERED ASSIGNMENT DEED NO.470/1956
DATED 7.4.1956
- EXHIBIT P3: TRUE COPY OF THE BILL SHOWING RUKHIYA UMMA'S NAME OF THE
RECEIPTS ISSUED BY KSEB
- EXHIBIT P4: TRUE COPY OF THE LETTER NO. B2-10981/13 DATED 23.8.2013 ISSUED
BY THE THAHASILDAR
- EXHIBIT P5: TRUE COPY OF THE ADANGAL REGISTER SHOWING THE RECORD
THAT THE SY NO. 111/8
- EXHIBIT P6: TRUE COPY OF THE LETTER NO.315/TDR/ECO/14 DATED 21.3.2014
- EXHIBIT P7: TRUE COPY OF THE LETTER NO.71/2014 DATED 26.3.2014 ISSUED BY
THE SUB REGISTRAR TO THAHASILDAR TIRUR
- EXHIBIT P8: TRUE COPY OF THE NO.B2-3519/14 DATED 5.4.2014
- EXHIBIT P9: TRUE COPY B2-3519/14 DATED 19.5.2014
- EXHIBIT P10: TRUE COPY OF THE LETTER NO. 1490/TDR/13 DATED 28.4.2014
- EXHIBIT P11: TRUE COPY OF THE REPORT NO.H 3059/14 DATED 24.5.2014
- EXHIBIT P12: TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR
NO.B1/37603/2013 DATED 23.6.2014
- EXHIBIT P13: TRUE COPY OF THE LETTER NO.D-3504/15 DATED 28.4.2015
- EXHIBIT P14: TRUE COPY OF THE LETTER NO. 13/RTI/2014 DATED 5.8.2014

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

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P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 15869 of 2015 &

W.P.(C).No. 35048 of 2015

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Dated this the 11th day of December, 2015

J U D G M E N T

The issue in these writ petitions is regarding the identity of the property claimed by the petitioners comprised in Sy. No. 111/3, 111/4, 111/8 of Thrikkandiyoor Village, Tirur Taluk in Malappuram District.

2. This Court on an earlier occasion in W.P.C No. 2380/14 directed the District Collector to consider the representation filed by a co-owner. Thereafter the District Collector, pursuant to direction of this Court considered the claim of the petitioners and found that the claim of the petitioners are untenable and as the petitioners are unable to establish title to the property and as per the survey records this is a puramboke land. It is also noted that it is in possession of

the police department since 1962.

3. It is admitted now the police department is undertaking a construction in this land.

4. The question is whether the decision of the District Collector is correct or not. The District Collector obviously has taken the decision taking note of the fact that the petitioners failed to establish title to the property and also on examining the encumbrance details from the Sub Registrar's Office found that it is a puramboke land.

5. This court is of the view that essentially when a title to the property is involved it has to be decided by identifying and demarcating the property with reference to the title deed of the parties. It is also necessary to find whether the Government land was wrongly mentioned in survey records. It is referred in the order of the District Collector that there was transfer of land in the year 1958 and thereafter through the land acquisition proceedings the land has been transferred to the police department. Certainly if such transfer has been effected, it can be verified through the proceedings of the land acquisition.

6. Considering the facts and circumstances, this Court is of the view that the District Collector shall cause identification of the property through the Assistant Director of Survey and land records claimed by the petitioner with reference to the title deeds. Thereafter it has to be found out that any acquisition has taken place in respect of the land and to what extent. The identity has to be done through the survey records, title deeds etc and also with reference to the land acquisition proceedings, if any involved. After identification if it is found out that it belongs to the petitioner, then the District Collector has to find out how the property has been devolved upon the police department. If there is no record otherwise to show that it is devolved upon the police department necessarily appropriate decision has to be taken by the District Collector. Therefore the impugned orders Ext.P10 ad P12 are set aside and the appropriate steps shall be taken in this regard within three months from the date of receipt of the copy of this judgment. The construction being undertaken can go on subject to the decision of the District Collector. If ultimately it is found out that construction is being carried out in

the petitioners' land and the property exclusively belong to the petitioners, necessarily, construction undertaken would depend upon such decision.

The writ petition is disposed of, as above.

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A.MUHAMED MUSTAQUE, JUDGE