

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

W.P.(C).No.17222 of 2015 (C)

PETITIONER(S):

THOMAS P.V, AGED 50 YEARS,
PLAVILAKANDATHIL VARGHESE
POTHUKALLU VILLAGE AND PANCHAYATH, P.O.BHOOTHANAM,
NILAMBUR AMSOM DESOM, MALAPPURAM DISTRICT.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENT(S):-

1. THE TAHSILDAR,
NILAMBUR - 679 329.

2. THE VILLAGE OFFICER
CHUNGATHARA VILLAGE, NILAMBUR TALUK, PIN - 679 334.

R1 & R2 BY STATE ATTORNEY SRI.VIJAYARAGHAVAN.P. &
SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P-1: TRUE COPY OF ONE OF THE BASIC TAX RECEIPT DATED 16.4.1999
ISSUED IN THE NAME OF VARGHESE BY THE VILLAGE OFFICER,
CHUNGATHARA.
- EXT.P-2: TRUE COPY OF THE BASIC RECEIPT NO.9045716 DATED 30.1.2013
FOR RS.830/- ISSUED BY THE VILLAGE OFFICER, CHUNGATHARA.
- EXT.P-3: TRUE COPY OF THE ORDER MADE BY THE SUB COURT, MANJERI
IN I.A.NO.59/2014 IN O.S.NO.2/2014 DATED 20.2.2015.
- EXT.P-4: TRUE COPY OF THE COMMUNICATION DATED 11.11.2013 ISSUED
BY THE 2ND RESPONDENT.
- EXT.P-5: TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 3.12.2013
FILED BEFORE THE IST RESPONDENT BY THE PETITIONER AND
HIS MOTHER.
- EXT.P-6: TRUE COPY OF THE JUDGEMENT MADE IN WPC NO.3720/2015
DATED 27.2.2015.
- EXT.P-7: TRUE COPY OF THE HEARING NOTICE DATED 22.4.2015 ISSUED
FROM THE IST RESPONDENT'S OFFICE.
- EXT.P-8: TRUE COPY OF THE OBJECTION DATED 18.5.2015 FILED BY THE
PETITIONER BEFORE THE IST RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.17222 of 2015-C

Dated this the 17th day of June, 2015

JUDGMENT

The petitioner is aggrieved by the fact that there is no compliance of Exhibit P6 judgment and the authority who was directed to consider an appeal filed by the petitioner in Exhibit P6 judgment, is taking proceedings to hear unnecessary parties.

2. The facts disclosed from the writ petition are that the petitioner is in possession and enjoyment of 6.90 acres of land in Block No.99 in Re-survey No.89/1Pt. 85/2Pt. of Chungathara Village in Nilambur Taluk. Admittedly there was a dispute with respect to the property, raised by one Plavilakandathil Thomas Mathew @ Mathai, who had also approached the Civil Court by O.S.No.2 of 2014, now said to be pending before the Subordinate Judge's Court, Manjeri. Exhibit P3 is an order, by which a prayer for interim injunction was turned down by the Sub Court.

3. The petitioner is said to have been paying the basic tax all along and the same was refused only on the objection raised by the said Plavilakandathil Thomas Mathew. The petitioner, hence, filed

an appeal from the order of the Village Officer and approached this Court for expeditious disposal of the same. This Court directed the same to be considered within three months, by Exhibit P6. The authority, being the 1st respondent herein, issued notice to the plaintiff in the aforementioned suit, which was objected to by the petitioner, at Exhibit P8.

4. Ideally and necessarily if the authority felt that the notice should be issued to any other parties, it was incumbent upon the said authority to approach this Court seeking a revision or at least extension of time. In any event, that issue need not be gone into at this point. The petitioner is also not justified in saying that an objector shall not be heard. However, it is to be noticed that the issue now pending before the 1st respondent is only with respect to payment of tax and such payment would not decide the issue of title, which has to be agitated before the appropriate Civil forum. There is also a suit pending before the appropriate Civil forum and any payment made would not affect the title as such; nor govern the decision in the suit. In such circumstance, the appeal is directed to be considered immediately, at any rate, within two months from the date of receipt of

a certified copy of this judgment. It is also made clear that, since notice having been already given to the objectors, they shall be heard, if they appear; and if not, they shall be set *ex parte* and a decision taken in the appeal in accordance with law and in accordance with the observations made by this Court, herein.

The writ petition is disposed of as above. No costs.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]