

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 24714 of 2007 (P)

PETITIONER(S) :

RAJEENA, W/O. NAZER,
VADAKKE MANGALATHU HOUSE, THALAYOLAPPARAMBU.

BY ADVS.SRI.K.K.M.SHERIFF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN

RESPONDENT(S) :

1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT
THIRUVANANTHAPURAM.
2. THALAYOLAPARAMBU GRAMA PANCHAYATH,
THALAYOLAPARAMBU, KOTTAYAM DISTRICT
REPRESENTED BY ITS SECRETARY.
3. V.MOHANAN,
SECRETARY, THALAYOLAPPARAMBU GRAMA PANCHAYATH
KOTTAYAM DISTRICT.
4. THE SUB REGISTRAR,
THALAYOLAPPARAMBU, KOTTAYAM DISTRICT.

R2 & R3 BY ADV. SRI.LAL GEORGE
R1 & R4 BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 24714 of 2007 (P)

APPENDIX

PETITIONER' (S) EXHIBITS:

EXT.P1 COPY OF THE SALE DEED DATED 01.08.2005
EXT.P2 COPY OF THE CERTIFICATE DATED 31.07.2007
EXT.P3 COPY OF THE COMMUNICATION DATED 31.07.2007
EXT.P4 COPY OF THE SALE DEED DATED 31.07.2007.

RESPONDENT' (S) EXHIBITS:

EXT.R2 (a) COPY OF THE REPRESENTATION
EXT.R2 (b) COPY OF THE REPORT
EXT.R2 (c) COPY OF THE LETTER ADDRESSED TO THE PETITIONER.
EXT.R2 (d) COPY OF THE LETTER.

//TRUE COPY//

PA TO JUDGE

bka/-

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 24714 of 2007

Dated this the 21st day of November, 2015

J U D G M E N T

The petitioner is the permanent resident within the local limits of the 2nd respondent panchayath and is the absolute owner of the property comprised in Sy.No.294/5A in Vadayar Village, Vaikkom Taluk, which was purchased by her as per sale deed dated 01.08.2005. The petitioner alleges that a residential building No.VI/291, which is in a dilapidated condition, is situated in the aforesaid property at the time of purchase. Immediately after the purchase of the said property, the petitioner has approached the 2nd respondent to verify as to whether any arrear of tax or any other liability is to be cleared in respect of the said property. However, it was informed that the building situated therein is not liable for tax; it is alleged. At present, no one is residing in the said building and it is in un-occupiable condition. Later, the petitioner has sold the aforesaid property vide sale deed dated 31.07.2007 to

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Sri.Suni V.K., Mangalathu House, Thalayolaparambu. As the petitioner wanted to complete the formalities of registration of the sale, she approached the 3rd respondent for getting a certificate showing the details of the property tax assessment made by the panchayath in respect of the said building as the same is required for the purpose of registration of the sale deed. The said application was submitted by the petitioner through the said Suni V.K., the intending purchaser. Application was submitted in the morning on 31.07.2007 and immediately thereafter, an inspection was conducted and after the inspection, when Sri.Suni V.K. approached Sri.V.Mohanan, the Secretary, an amount of ₹1,000/- was asked to be paid as deposit for issuing the certificate. According to the petitioner, the certificate was urgently required as the registration of the said sale deed was proposed to be conducted on 31.07.2007 itself. The 3rd respondent insisted that he could issue the certificate immediately only if the said amount is deposited. Therefore, he gave the said amount to the said Mohanan under the bona fide belief that it was

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a legal requirement and after accepting the said amount, the 3rd respondent has issued Ext.P2 certificate stating that the building situated in the property of the petitioner is not liable for tax. Thereafter, when the husband of the petitioner came to know about the same, he approached the said Mohanan and requested for a receipt for the said deposit of ₹1,000/-. However, he refused to issue any receipt for the payment he received. From the conduct of the 3rd respondent, the petitioner's husband could understand that the said demand was not for any deposit and it was demanded only as a gratification for issuing the certificate. When the petitioner's husband insisted on receipt, he returned the said amount presumably with the intention to avoid any action being taken against him. Immediately thereafter, the 3rd respondent issued Ext.P3 communication to the 4th respondent intimating that Ext.P2 certificate has been cancelled. The petitioner alleges that no copy of the same has been issued to the petitioner and no valuable reason is stated for cancelling the same. According to the petitioner, the action of the 3rd

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respondent is mala fide and only intended to wreak vengeance against the petitioner. It is with this background, the petitioner has come up before this Court.

2. This Court, as per interim order dated 17.08.2007, recorded the submission of the learned Government Pleader, on instructions from the 4th respondent, that the petitioner has not produced any document for registration and it was further observed that if the petitioner was ready to produce the document for registration, it would be dealt with in accordance with law and at that point of time, there was no necessity to produce certificate on the lines of Ext.P2.

As the very purpose sought to be achieved by the filing of the writ petition has been served, the writ petition is closed making the interim order absolute.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE