

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 17953 of 2015 (T)

PETITIONER(S):

1. C.A. BOOBACKER,
S/O.ABDUL KHADER, NO. 139, MATHER NAGAR,
CHANGAMPUZHA NAGAR P.O., KOCHI -682 033,
ERNAKULAM DISTRICT.
2. RASIA,
W/O. C.ABOOBACKER, NO. 139, MATHER NAGAR,
CHANGAMPUZHA NAGAR P.O., KOCHI -682 033,
ERNAKULAM DISTRICT.
3. RUBY BACKER,
D/O. C. ABOOBACKER, NO. 139, MATHER NAGAR,
CHANGAMPUZHA NAGAR P.O., KOCHI -682 033,
ERNAKULAM DISTRICT.

**BY ADVS.SRI.KURIAN ANTONY EDASSERY,
SMT.ANN EMIL JOSEPH.**

RESPONDENT(S):

1. THE VILLAGE OFFICER,
ERNAKULAM VILLAGE, ERNAKULAM DISTRICT.
2. THE TAHSILDAR, KANAYANNOOR TALUK,
ERNAKULAM DISTRICT.
3. STATE OF KERALA,
REPRESENTED BY ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVT.PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 A TRUE COPY OF SALE DEED NO. 2967/1990 OF ERNAKULAM
S.R.O DATED 24/08/1990.
- EXHIBIT P2 A TRUE COPY OF SALE DEED NO. 2969/1990 OF ERNAKULAM
S.R.O DATED 28/08/1990.
- EXHIBIT P3 A TRUE COPY OF SALE DEED NO. 2817/1995 OF ERNAKULAM
S.R.O DATED 26/05/1995.
- EXHIBIT P4 A TRUE COPY OF THE JUDGMENT OF THE HONOURABLE
SUB COURT ERNAKULAM IN O.S NO. 235 OF 2011 DATED 28/02/2014.
- EXHIBIT P5 A TRUE COPY OF THE DECREE OF THE HONOURABLE SUB COURT
ERNAKULAM IN O.S NO. 235 OF 2011 DATED 28/02/2014.
- EXHIBIT P6 A TRUE COPY OF THE ENCUMBRANCE CERTIFICATE ISSUED BY THE
SUB REGISTRY ,ERNAKULAM DATED 21/03/2015.
- EXHIBIT P7 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO
THE PETITIONERS DATED 26/05/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No. 17953 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

The petitioner is aggrieved by the mutation not being effected with respect to the property they have obtained conveyance, by Exts.P1, P2 and P3.

2. The learned Government Pleader, on instructions, submits that the mutation has not been effected, since there was an attachment on the entire extent of property. The learned Counsel for the petitioner would admit that, there was an attachment, which is evident from Ext.P6. In any event, the attachment made of a property need not deter the authorities under the Transfer of Registry Rules, 1966 in effecting a mutation, since the attachment would run with the property and the purchaser would have the risk of such attachment surviving on the property even after the purchase.

The decision of this Court reported in Joy Kutty Thomas v. Village Officer [2009(3) KLT 914], though in a different context, would govern the issue herein too. Further in this case, the attachment effected by the Sub Court, is in a suit on which the petitioners themselves are parties. In such circumstance, the respondents are directed to effect mutation of the property and accept tax from the petitioner under the Kerala Land Tax Act, 1961. Ext.P7 would stand set aside.

The writ petition is allowed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge