

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 20428 of 2014 (C)

PETITIONER(S):

**ANICES, WIFE OF MATHEW,
RESIDING AT PAZHAYIDATH HOUSE,
KOLEPRA, KUDAYATHUR, THODUPUZHA.**

**BY ADVS.SRI.S.EASWARAN,
SRI.P.MURALEEDHARAN (IRIMPANAM),
SRI.M.A.AUGUSTINE.**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, IDUKKI,
IDUKKI COLLECTORATE AT PAINAV- 685 603.**
- 2. THE TAHSILDAR, THODUPUZHA TALUK,
THODUPUZHA- 685 584.**
- 3. THE VILLAGE OFFICER, KUDAYATHUR VILLAGE,
P.O. KUDAYATHUR- 685 590.**
- 4. THE KUDAYATHUR PANCHAYATH, P.O. KUDAYATHUR,
REPRESENTED BY ITS SECRETARY, PIN-685 590.**

R1 TO R3 BY SPL. GOVT. PLEADER SMT.SUSEELA R.BHATT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 20428 of 2014 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 COPY OF THE JUDGMENT DATED 14-03-2007 IN O.S NO 135/2004 OF
THE COURT OF MUNSIFF, THODUPUZHA.**

**EXHIBIT P2 COPY OF WIL DATED 04-10-2006 EXECUTED BY LATE ANNA IN
FAVOUR OF THE PETITIONER .**

**EXHIBIT P3 COPY OF THE COMMON JUDGMENT DATED 23-12-2011 IN
WP(C).NO.3959 OF 2004.**

**EXHIBIT P4 COPY OF THE COMMUNICATION DATED 18-02-2014 ISSUED BY
THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. Vinod Chandran, J

W.P.(C).No.20428 of 2014-C

Dated this the 10th day of August, 2015.

JUDGMENT

The petitioner is the daughter of one Anna, who is now no more and who was concerned with the revenue recovery proceedings initiated against a property which the petitioner's mother is said to have purchased from her son-in-law.

2. The brief facts to be noticed, as has been noticed in Exhibit P3, is that the petitioner's mother had challenged a revenue sale effected, of certain properties on the ground that she had purchased the same in a Court sale from her son-in-law and his siblings. The auction purchaser in the revenue sale had also filed a writ petition, seeking delivery of the properties auctioned by the Revenue Recovery authorities.

3. This Court, in Exhibit P3, directed an enquiry to be conducted by the Director (Vigilance), since the conveyance executed by the son-in-law of the petitioner's mother in her favour; which eventually led to the decree and Court sale, was immediately after the properties were included in a Solvency

Certificate executed before the authorities under the Abkari Act. The revenue recovery sale was due to the default committed under the Abkari Act. However, even before the writ petitions, the petitioner's mother had approached the Civil Court against the auction purchaser and the State with two separate suits, the judgment of which is produced as Exhibit P1. The only relief granted was, permitting the mother of the petitioner to construct a boundary wall as has been indicated in the Commissioner's report.

4. The auction purchaser also contended before this Court that whatever properties were remaining after the construction of the boundary wall may be handed over to him. It was so directed in Exhibit P3 and it was further ordered that the auction purchaser would be entitled to approach the Revenue Recovery authorities for refund of proportionate value of property which could not be delivered to him. Admittedly a review is pending against Exhibit P3, on the ground that there could be no clear identification of the property. In the meanwhile, the petitioner's mother died and in Exhibit P3 itself the petitioner impleaded herself as the legal heir of the deceased petitioner therein. There is also said to be an appeal pending from Exhibit P1 judgment and decree.

5. The petitioner's prayer, as of now, is only for numbering the building, so that she will be able to obtain electric connection and water connection to the residential building constructed in the property. The petitioner seeks acceptance of tax also, which is opposed by the learned Special Government Pleader on the ground that the review itself has been filed for the reason that the identification of the property is not possible. In the circumstance of a review from Exhibit P3 and an appeal from Exhibit P1 are pending, it is only proper that the 4th respondent-Panchayat be directed to provisionally number the residential building, so as to enable the petitioner to obtain water connection and electricity connection. It is made clear that the petitioner cannot have any claim of equity on the basis of the aforesaid judgment.

The writ petition is disposed of as above.

Sd/-
K.Vinod Chandran
Judge.

Vku/-

[true copy]