IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 21710 of 2014 (K)

PETITIONER(S):

CLEETUS, SON OF DEVASSI,
KATTASSERI HOUSE, OCHANTHURUTHU,
PUTHUVYPE.

BY ADVS.SMT.K.P.SANTHI,
SRI.RILGIN V.GEORGE.

RESPONDENT(S):
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1. STATE OF KERALA
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM-695 001.

2. THE DISTRICT COLLECTOR,
   ERNAKULAM-682 030.

3. THE ADDITIONAL TAHSILDAR,
   KOCHI TALUK OFFICE, KOCHI-682 001.

4. THE VILLAGE OFFICER,
   PUTHUVYPE VILLAGE, KOCHI-682 508.

BY SR. GOVT. PLEADER SRI.GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 21710 of 2014 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

P1. TRUE COPY OF PATTA NO. 58/71 ISSUED BY THE ASSIGNING AUTHORITY, KOCHI.

P2. TRUE COPY OF THE PATTA NO. 67/71 ISSUED BY THE ASSIGNING AUTHORITY.

P3. TRUE COPY OF THE TAX RECEIPT DATED 10-06-2013 IN RESPECT OF THE PROPERTY.

P4. TRUE COPY OF THE REPRESENTATION DATED 17-05-2013 ALONG WITH ENDORSEMENT OF THE 3RD RESPONDENT AND REPORT OF THE 4TH RESPONDENT.

P5. TRUE COPY OF THE REPRESENTATION DATED 21-06-2014.

P6. TRUE COPY OF ORDER DATED 19-11-2009.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 21710 of 2014

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Dated this the 26th day of October, 2015

J U D G M E N T

This writ petition is filed by an assignee/original patta holder. Exts.P1 and P2 are the patta claims to have been issued to the original assignor to the predecessor-in-interest of the petitioner.

2. The issue to be considered in the writ petition is regarding refusal of acceptance of basic tax. It is admitted that basic tax being received from the petitioner as well as the assignors till 2013 and thereafter the revenue officials refused to receive basic tax.

3. The patta refers to proceedings in L.A No. 58/71 and 67/71. The petitioner submits that there is no justification in refusing to accept basic tax.

4. In the counter affidavit filed before this Court in para 9 it is stated as follows:

> "9. Neither the Taluk office, Kochi record room shows any document to prove the title of 0.35.00 Ares of land in old survey No.1476/3, 1477/2 in L.A.67/71 of Elankunnapuzha village and 33.00 ares in old Survey No.1476/2, 1477/1, 1483 of Elankunnapuzha village in LA

> 58/71. No such pattayam has been issued vide LA 67/71 and LA 58/71 of Elankunnapuzha village to anyone. The petitioner had also failed to produce the original of 12(1) notice, Assignment Order and receipt of purchase price issued vide land assignment order under Rule 9(1) of KLA Rules 1964. The 3rd and 4th respondent only has the right to execute the provisions of the KLA Act & Rules 1964 and take prompt action to examine and verify the genuinty of the pattayam produced by the petitioner by giving notice to appear in personal hearing and producing the document evidence. Therefore the order No.S2-6125 dated 03.07.2013 issued by the 4th respondent not to receive the land tax and the fact reported to the District Collector, Ernakulam for rejecting the Thandapper account and resume the land to Government and is marked as Exhibit P3. The Honourable Court issued such an order to avoid the economic loss of state exchequer. But in this case the petitioner has no clear title or to produce any documental evidence to prove his clear title for remitting the land tax. The land tax can be charged and levied under the provisions of section 5(1) of Kerala Land Tax Act 1961 states that the land holder in respect of any land is a person referred to in sub clause (c) or sub clause (3) of section 3. Now in this case the petitioner is totally failed to produce the basic evidence. The petitioner has tempered the document and produced bogus and frivolous pattayam and hence the orders issued to remove the Thandapper account and resume that land to the Government."

5. The question now appears to be is regarding the bogus purchase certificate issued to predecessor-in- interest of the petitioner. If the pattas relied by the petitioner are not genuine, necessarily the revenue officials can refuse basic tax from the petitioner. If pattas produced relied by the petitioner are genuine, necessarily the authority has to accept basic tax.

6. Therefore there should be an adjudication whether patta claimed by the petitioner is genuine or not. This Court is of the view that the Tahsildar shall take a decision in the matter relating to

the patta claimed by the petitioner. This is essentially has to be considered in respect of the identity of the property as well as the records of the patta. The Tahsildar shall take a decision in the matter regarding validity of the patta claimed by the petitioner within three months from the date of receipt of the copy of this judgment after hearing the petitioner. Depending upon the out come of the decision, the basic tax can be accepted from the petitioner.

The writ petition is disposed of, as above.

sd/-

sab A.MUHAMED MUSTAQUE, JUDGE