

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 25369 of 2012 (U)

PETITIONER(S):

**MURALEEDHARAN PILLAI AGED 45 YEARS
S/O.VASUDEVAN PILLAI, 'NILAVU', ARAMPUNNA
PUNALUR, KOLLAM DISTRICT.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S):

**THE PUNALUR MUNICIPALITY
REPRESENTED BY ITS SECRETARY, PUNALUR P.O.
KOLLAM DISTRICT, PIN-691305.**

*** GOPAKUMAR
KAIPALLIL VEEDU
PUNALUR P O
KOLLAM DISTRICT - 691305**

*** ADDL.2ND RESPONDENT IMPEADED AS PER ORDER DATED 31.10.2012 IN
I.A.14484/2012**

**RADDL-RR2 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
R BY SRI.B.KRISHNA MANI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PROPERTY TAX RECEIPT REMITTED BY THE PETITIONER BEFORE THE VILLAGE OFFICER, PUNALUR FOR THE PERIOD 2011-2012.

EXHIBIT P2: TRUE COPY OF THE CONSENT LETTER DATED 10-6-2011 SUBMITTED BY THE PREVIOUS OWNER SRI.PRADEEP KUMAR BEFORE THE RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE JUDGMENT DT.3-9-2011 IN OS 206/2011 OF THE MUNSIF COURT, PUNALUR.

EXHIBIT P4: TRUE COPY OF THE JUDGMENT DATED 12-4-2012 IN WPC 5940/2012 OF THIS HON'BLE COURT.

EXHIBIT P5: TRUE COPY OF THE CERTIFICATE NO.R-15459/2012 DATED 7-8-2012 ISSUED BY THE RESPONDENT TO THE PETITIONER.

EXHIBIT P6: TRUE COPY OF THE PROPERTY TAX RECEIPT FOR THE YEAR 2012-13 ISSUED BY THE RESPONDENT TO THE PETITIONER.

EXHIBIT P7: TRUE COPY OF THE ORDER NO.R1-8490/2011 DATED 8-10-2012 ISSUED BY THE RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

A.M.SHAFFIQUE, J.

W.P.(C).No. 25369 of 2012

Dated this the 13th day of October, 2015

JUDGMENT

The petitioner has approached this Court challenging Ext.P7 by which the Municipality cancelled the entry showing ownership of the building No. 10/526 which was in the name of petitioner. The petitioner contended that he had purchased the above building along with building No's.10/526 a,b,c from late Sri.Gopala Pillai and on the basis of the “no objection certificate” issued by him necessary applications have been submitted to the Municipality by virtue of which Municipality had changed the name of the owner in the Municipal records. However, at the instance of the additional respondents herein, Municipality had cancelled the entry with reference to the ownership of building no.10/526, inter alia alleging that the petitioner

could not produce “no objection certificate” from the legal heirs.

2. During pendency of the above writ petition clarification order was issued by the Municipality stating that the order at Ext.P7 does not apply to building Nos.10/526 a,b &c. By a further order dated 2.5.2015, produced as Ext.P11 Municipality had changed the entry regarding ownership in the name of the petitioner, on the basis of an interim order passed by this Court.

3. It is interalia contended by learned counsel for the second respondent that he is the Power of Attorney holder of the actual owners of the property who had not assigned the property in favour of the petitioner. They have dispute on the title claimed by the petitioner and therefore this Court should not pass any orders as the question regarding title arises for consideration in the present lis.

4. It is submitted by the learned counsel for the petitioner that the additional respondent only claims to be a Power of Attorney holder of daughters of late Sri. Gopala Pillai and that the additional respondents has nothing to do with the transaction.

5. The facts being so, the Municipality can exercise their right to change the details regarding ownership in the register maintained by them on the basis of the records produced before the Municipality. The learned counsel for the petitioner submits that the title deed had already been produced. However, there is no material on record produced in this case to infer that building no.10/526 has been purchased by the petitioner. This is a fact which has to be verified by the Municipality. If there is valid document still in force which enables the petitioner to acquire ownership in respect of the aforesaid building, definitely he is entitled to get his

name included in the register.

6. Since Municipality has already passed an order Ext.P11, I am of the view that this writ petition can be disposed by giving an opportunity to the second respondent to raise appropriate contentions before the Municipality in the following manner.

1) that the second petitioner shall submit an application before the Municipality seeking to review Ext.P11 order dated 2.5.2015.

2) the Municipality shall consider the claim of the writ petitioner as well as that of the additional second respondent or persons whom he claims to represent taking into account the title deed of the writ petitioner as well, and pass appropriate orders either confirming Ext.P11 or receiving the same. This may be done within a

period of 2 months from the date of receipt of the copy of the judgment.

3) The Municipality shall also comply with any direction issued by the Civil Court in this regard.

**Sd/-
A.M.SHAFFIQUE
JUDGE**

//TRUE COPY//

PA TO JUDGE

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