

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(C).No. 22562 of 2015 (U)

PETITIONER(S):

**VILASINI, AGED 72 YEARS,
W/O.BHASKARAN, KOZHITOTTATH PADINJATTETHIL VEEDU,
THEKKE MURI, KIZHAKKE KALLADA VILLAGE,
KOLLAM TALUK. KOLLAM- 691 001.**

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL.

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
KOLLAM- 691 001.**
- 2. TAHSILDAR (RR),
KOLLAM- 691 001.**
- 3. VILLAGE OFFICER,
KIZHAKKE KALLADA, KOLLAM- 691 001.**
- 4. SUDHAKARAN,
S/O.BHASKARAN, DEVI VILASAM VEEDU,
KARUVELIYIL RADIO JUNCTION, KUNDARA,
KOLLAM- 691 001.**

R1 TO R3 BY GOVT. PLEADER SRI.GIKKU JACOB.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 22562 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. COPY OF THE SETTLEMENT DEED NO.779/2003 OF EZHUKONE SRO.

EXHIBIT P2. COPY OF THE CANCELLATION DEED NO.949/2006 DATED 27.04.2006.

EXHIBIT P3. COPY OF THE JUDGMENT IN WP(C).NO.14723/2014.

EXHIBIT P4. COPY OF THE LETTER ISSUED BY THE REVENUE DIVISIONAL
OFFICER, KOLLAM.

EXHIBIT P5. COPY OF THE NOTICE ISSUED BY THE TAHSILDAR (RR)
DATED 05.06.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.22562 of 2015

Dated this the 18th day of August, 2015

JUDGMENT

The petitioner, challenging revenue recovery proceedings, has approached this Court. The revenue recovery proceedings are initiated to recover the amount as a public due on land situated in Re-survey No.98/11 in block No.7 of Kizhakke Kallada Village.

2. The petitioner's claim is that the above property originally belongs to her. Thereafter, she executed a settlement deed No.779/2003 in favour of the fourth respondent. It is also pointed out that the petitioner retained life interest in the property and the above settlement deed is onerous with conditions. It is further submitted that the petitioner cancelled the settlement deed by executing a cancellation deed. Therefore, it is clear that the petitioner is the absolute owner in possession of the property and it cannot be proceeded for recovery of the amount due from the fourth respondent. It is also pointed out by the learned counsel for the petitioner that there is a specific clause in Ext.P1 settlement deed against alienation or creating interest over the property.

3. The petitioner is attempting to establish title over the property. Essentially, the petitioner now claims absolute ownership by way of title to the property. This Court invoking the power under Article 226 of the Constitution cannot decide a person's right relating to the title of the property in the particular facts and circumstances of this case. The question relating to cancellation deed, whether it is valid or not cannot be decided in this jurisdiction. The validity of the clause in the settlement deed, cannot also be decided in this writ petition. The petitioner is free to seek appropriate relief before the civil Court.

In view of the above, this Court cannot decide the issue without deciding the title of the petitioner, with liberty to the petitioner to approach the civil court, this writ petition is disposed of. To enable the petitioner to work out her remedy before the civil court, revenue recovery proceedings shall be deferred for a period of three months.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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