

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 24496 of 2015 (J)

PETITIONER :

**SOMARAJAN
S/O.MADHAVAN, AGED 49 YEARS
PUTHUPPURAKKAL, KUPPAKAYAM
MUNDAKAYAM, KOTTAYAM
REPRESENTED BY POWER OF ATTORNEY HOLDER SOUBHAGYAVATHI
D/O.MADHAVAN, PUTHUPURACKAL, KUPPAKAYAM P.O.,
MUNDAKAYAM, KOTTAYAM.**

BY ADV. SRI.S.NIDHEESH

RESPONDENT(S) :

- 1. THE REVENUE DIVISIONAL OFFICER
KOTTAYAM- 686 002.**
- 2. THE TAHSILDAR,
KANJIRAPPALLY TALUK
KANJIRAPPALLY, KOTTAYAM- 686 517.**
- 3. SUSEELA PADMANABHAN
W/O.PADMANABHAN, ALAYAKUNNEL, KORUTHODE
KOTTAAM DISTRICT - 686 513.**

**R1 & R2 BY GOVT. PLEADER SRI. BIJU MEENATTOOR
R3 BY ADV. SRI.LIJI J.VADAKEDOM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-12-2015,
ALONG WITH WP(C) NO. 26735/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

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...2/-

WP(C).No. 24496 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT. P1- TRUE COPY OF THE APPLICATION FOR CANCELLATION OF PATTA
BEFORE THE 1ST RESPONDENT DATED 22.12.2014 WITHOUT
ENCLOSURES.**
- EXT. P2- TRUE COPY OF THE NOTICE DATED 18.6.2015 SENT BY THE 2ND
RESPONDENT TO THE PARTIES.**
- EXT. P3- TRUE COPY OF THE NOTICE DATED 1.7.2015 SENT BY THE 2ND
RESPONDENT TO THE PERTIES.**
- EXT. P4- TRUE COPY OF THE NOTICE DATED 23.7.2015 SENT BY THE 2ND
RESPONDENT TO THE PARTIES**

RESPONDENT(S)' EXHIBITS : **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.Muhamed Mustaque, J.

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W.P.(C) No.24496 of 2015

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Dated this the 15th day of December, 2015.

JUDGMENT

1. The writ petitioner in W.P.(C)No.24496 of 2015 has approached the Revenue Divisional Officer, Kottayam by Ext.P1 to cancel the patta issued in favour of the writ petitioner in W.P.(C)No.26735 of 2015 in respect of the land comprised in Block No.30 in Re.Sy.No.3568 of Erumeli North Village.
2. The allegation of the writ petitioner in W.P.(C)No.24496/2015 is that the patta has been obtained by mis-representation and fraud. The writ petitioner in W.P.(C)No.26735 of 2015 has filed the writ petition challenging the proceedings initiated by the Revenue Divisional Officer pursuant to the application of the writ petitioner in W.P.(C) No.24496 of 2015. According to the writ petitioner, since the issue raised before the RDO has to be finally settled by the civil court, the

proceedngs initiated by the RDO shall be suspended.

3. It appears that the suit was filed by the writ petitioner in W.P.(C) No.24496 of 2015 seeking a declaration and also for possession, which was allowed by the Munsiff's Court. The appeal filed by the writ petitioner in W.P.(C)No.26735 of 2015 was allowed holding that the petitioner is in possession of the land. Assailing the same, Second Appeal, R.S.A.No.919 of 2014 was filed and the same is pending.
4. This court is of the view that, considering the nature of the request of the petitioner in W.P.(C)No.24496 of 2015, limiting to the enquiry as to the mis-representation or fraud, the same shall be decided by the RDO by confining the scope of enquiry to the above limited extent. Therefore, the RDO shall conduct an enquiry relating to mis-representation or fraud committed while issuing patta in favour of the writ petitioner in W.P.(C)No.26735 of 2015. Necessarily, while

concluding the proceedings, the judgment of the civil court has to be looked into and any issue which has been decided by the civil court need not be considered by the RDO.

5. It is made clear that the scope of enquiry shall be only to the limited extent of finding out mis-representation or fraud and not beyond that.

Writ petition is disposed of as above.

Muhamed Mustaque, Judge.

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