

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 25315 of 2015 (L)

PETITIONER :

**M.S. SANGEETH, AGED 43 YEARS
S/O.LATE MR. SRINIVASAN, KOVIL THEKKEVALAPPIL HOUSE
IX/440, SOUTH OF GOVT. HIGH SCHOOL, CHAMAKKALA
CHAMAKKALA P.O., THRISSUR – 680 687.**

**BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH**

RESPONDENT(S) :

- 1. THE VILLAGE OFFICER
CHENDRAPPINNI, THRISSUR – 680 687.**
- 2. THE ADDITIONAL TAHSILDAR
KODUNGALLUR TALUK, KODUNGALLUR – 680189.**
- 3. THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE & ANTI CORRUPTION BUREAU, THRISSUR UNIT
SHORNUR ROAD, THRISSUR – 680 022.**
- 4. K.K.SUSHEELA
W/O.LATE KUNJUNNI, MADATHINKAL HOUSE
NEAR BHAIKANAMADOM, NEDUMPARAMBU, KOOLIMUTTAM P.O.,
THRISSUR – 680 691.**

**R1 TO R3 BY GOVT. PLEADER SRI. MANOJ KUNJACHAN
R4 BY ADV. SRI.VARGHESE C.KURIAKOSE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C).NO.31865/2013 DATED 20.12.2013.
- EXT. P2: A TRUE COPY OF THE LETTER OF THE 1ST RESPONDENT TO THE PETITIONER DATED 01.02.2014.
- EXT. P3: A TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C).NO.4027/2014 DATED 10.04.2015.
- EXT. P4: A TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT TO THE PETITIONER DATED 20.05.2015.
- EXT. P5: A TRUE COPY OF THE TAX RECEIPT.
- EXT. P6: A TRUE COPY OF THE SAID LETTER OF THE 1ST RESPONDENT TO THE PETITIONER DATED 02.07.2015

RESPONDENT(S)' EXHIBITS :

- EXT. R4(a) PHOTOSTAT COPY OF JUDGMENT IN WP(C) NO. 26470/2011 DATED 25.10.2011 PASSED BY THIS HONOURABLE COURT.
- EXT. R4(b) PHOTOSTAT COPY OF THE PLAINT IN OS NO. 488/2011 HAD BEEN FILED BEFORE SUB COURT, IRINJALAKUDA.
- EXT. R4(c) PHOTOSTAT COPY OF THE SUIT AS OS NO. 996/2011 BEFORE MUNSIFF'S COURT, KODUNGALLUR ON 26.9.2011.
- EXT. R4(d) PHOTOSTAT COPY OF APPLICATION SUBMITTED ON 20.8.2011 BEFORE THE ADDL. TAHSILDAR, KODUNGALLUR TALUK.
- EXT. R4(e) PHOTOSTAT COPY OF THE APPLICATION ALONGWITH INTERIM ORDER GRANTED BY HON'BLE SUB COURT, IRINJALAKUDA.
- EXT. R4(f) PHOTOSTAT COPY OF THE JUDGMENT IN WPC NO. 31865/2013 DATED 20.12.2013 PASSED BY THIS HONOURABLE COURT.
- EXT. R4(g) PHOTOSTAT COPY OF THE ORDER PASSED BY THE VILLAGE OFFICER ON 1.2.2014.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P(C).No. 25315 of 2015

Dated this the 2nd November, 2015

JUDGMENT

This Writ Petition is filed aggrieved by Exhibit P6 communication of the Village Officer, Chendrappinni, Thrissur, first respondent.

2. The petitioner made a request to issue possession certificate in respect of the property having an extent of 54.53 Ares of land in Sy.No.14/5 of Chentrappini Village, Kodungallur Taluk. The petitioner refers to title by assignment deed No.1286/2011 executed by late K.K.Subramanian. The party respondent and others have challenged the title claimed by the petitioner before the Civil Court in O.S.No.488 of 2011 on the file of the Sub Court, Irinjalakuda. The petitioner filed O.S.No.996 of 2011 for injunction, which is also pending before the Sub Court, Irinjalakuda. The party respondent would contend that the petitioner's attempt is to create evidence for the purpose of the civil suit pending and if the petitioner is given the

possession certificate, that will affect the case pending before the Civil Court and also deprive the party respondent from getting fruits from ultimate outcome of the civil suit.

3. It is to be noted that the transfer of register has been effected in favour of the petitioner and land tax has also been paid by the petitioner. Learned counsel for the petitioner would submit that the petitioner requires the possession certificate for the purpose of agricultural activities and also to carry out certain repair work in the building situated in the property. It is undertaken by the petitioner before this Court that he will not encumber or transfer the land till the disposal of O.S.No.488 of 2011 filed by the party respondent.

In the above circumstances, this Court is of the view that the possession certificate can be issued to the petitioner subject to the following conditions:

- I. The petitioner shall not encumber or transfer the property in question without orders from the Civil Court.

- II. The petitioner cannot claim any benefit on the basis of the possession certificate in the civil suit pending.
- III. The possession certificate is to be issued only for the purpose to enable the petitioner to claim benefit of agricultural subsidies and other related activities.
- IV. The Civil Court shall decide the dispute untrammelled by the issuance of the possession certificate or payment of land tax or effecting transfer of Registry in favour of the petitioner.

The first respondent shall issue the possession certificate within two weeks from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

**A.MUHAMED MUSTAQUE
JUDGE**