IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WP(C).No. 26458 of 2015 (F)

PETITIONER(S):
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1. K.O.ABRAHAM,
   KULATHRAMANNIL HOUSE, THALAYAR MURI,
   KUTTOOR VILLAGE, THIRUVALLA.

2. BIBIN K.ABRAHAM, KULATHRAMANNIL HOUSE,
   THALAYAR MURI, KUTTOOR VILLAGE, THIRUVALLA.

3. ELIZABETH KURIYAKOSE,
   KARUKAYIL HOUSE, NIRANAM KIZHAKUMBHAGOM.P.O.,
   THIRUVALLA.

   BY ADVS.SRI.T.P.PRADEEP
   SRI.P.K.SATHEES KUMAR

RESPONDENT(S):
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1. THE REVENUE DIVISIONAL OFFICER,
   THIRUVALLA. PIN-689 101.

2. THE AGRICULTURAL OFFICER/CONVENER OF THE LOCAL LEVEL
   MONITORING COMMITTEE,
   KRISHI BHAVAN, KUTTOOR.PIN-689 106.

3. TAHAZILDAR,
   TALUK OFFICE, THIRUVALLA.PIN- 689 101.

   BY GOVERNMENT PLEADER SRI.E.M.ABDUL KHADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 26458 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- **TRUE COPY OF THE SALE DEED DOCUMENT NO.2652/2009 OF SUB REGISTRAR OFFICE, THIRUVALLA.**

P2- **TRUE COPY OF THE SETTLEMENT DEED DOCUMENT NO.3766/2013 OF SUB REGISTRAR OFFICE, THIRUVALLA.**

P3- **TRUE COPY OF THE SALE DEED DOCUMENT NO.3767/2013 OF SUB REGISTRAR OFFICE, THIRUVALLA.**

P4- **TRUE COPY OF THE JUDGMENT DATED 12.12.2014 IN W.P[C] NO.33490/2014.**

P5- **TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 27.01.2015 ISSUED TO THE 1ST PETITIONER.**

P6- **TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 27.01.2015 ISSUED TO THE 2ND PETITIONER.**

P7- **TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 27.01.2015 ISSUED TO THE 3RD PETITIONER.**

P8- **TRUE COPY OF THE APPLICATION PREFERRED BY THE 1ST PETITIONER DATED 08.06.2015 TO THE 3RD RESPONDENT.**

P9- **TRUE COPY OF THE APPLICATION PREFERRED BY THE 2ND PETITIONER DATED 08.06.2015 TO THE 3RD RESPONDENT.**

P10- **TRUE COPY OF THE APPLICATION PREFERRED BY THE 3RD PETITIONER DATED 08.06.2015 TO THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS: **NIL**
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/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.26458 of 2015

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Dated this the 2nd day of September, 2015

JUDGMENT

Petitioners are owners of land referred in Exts.P5 to P7 orders issued by the Revenue Divisional Officer under Clause 6 of the Kerala Land Utilisation Order. The petitioners now want to make reassessment of the land under the Kerala Land Tax Act, 1961. The petitioners rely on the judgment of this Court in **Panchayat v. Mariumma**, [2015 (2) KLT 516]. In paragraph-9 of the above decision, which is stated as follows:

> "The further issue raised before us by the learned Government Pleader was that in view of the directions of the Apex Court as contained in para 21 extracted above, even if the authorities under the Kerala Land Utilisation Order, 1967 pass an order in favour of the respondents, there cannot be any correction of entries in the Basic Tax Register maintained under the Kerala Land Tax Act. This contention was raised in the context of the principles laid down in the judgment that rectification as envisaged by S.18 of the Kerala Land Tax Act can only be in respect of arithmetical or clerical error, that too in the order of determining the tax due. Though it is true

> that in the judgment of the Apex Court, it has been held as above, that principle has been laid down by the Apex Court in the background of S.18 providing for rectification of mistakes. In our view, if an order is passed by the authority under the Kerala Land Utilisation Order or Act 28 of 2008 changing the description of the land, that cannot lead to a situation whether S.18 is attracted. On the other hand, such change of the description of the land would render the assessments already made under S.6 A of the Kerala Land Tax Act, 1961 redundant and instead what is called for is a fresh assessment in accordance with the said Act. Necessarily, as a consequence of such assessment, it would be open to the authrotiies also to make appropriate additions to the Basic Tax Register. Such a course, in our view, is not forbidden by any of the principles laid down by the Apex Court, particularly those contained in para 21 of the judgment mentioned above."

In the light of the above decision of this Court, there shall be a direction to the Tahsildar to take appropriate decision based on Exts.P8 to P10 applications made by the petitioners within a period of two months after issuing notice to the petitioners.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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