

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 27339 of 2015 (N)

PETITIONER/PETITIONER:

REUNION ENGINEERING COMPANY PVT. LTD
4TH FLOOR, AMAR BUILDING, SIR P.M.ROAD
MUMBAI-400001, REPRESENTED BY ITS MANGING DIRECTOR.

BY ADVS. SRI.E.K.MADHAVAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON
SRI.PRINSUN PHILIP

RESPONDENT/RESPONDENT:

KALAMASSERY MUNICIPALITY
KALAMASSERY, CHANGAPUZHA NAGAR P.O., ERNAKULAM DISTRICT
PIN-683104, REPRESENTED BY ITS SECRETARY.

BY SRI.M.K.ABOOBACKER,SC KALAMASSERY MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1- TRUE COPY OF THE RECEIPT DATED 20-5-2014.

EXHIBIT P2- TRUE COPY OF THE RECEIPT ISSUED BY THE RESPONDENT IN
RESPECT OF TAX COLLECTED FOR THE BUILDING XIV/1569.

EXHIBIT P2(A)- TRUE COPY OF THE RECEIPT ISSUED BY THE RESPONDENT IN
RESPECT OF TAX COLLECTED FOR THE BUILDING XIV/1572

EXHIBIT P3- TRUE COPY OF THE LETTER DATED 28-2-2014.

EXHIBIT P4- TRUE COPY OF THE LETTER DATED 27-8-2014.

EXHIBIT P5- TRUE COPY OF THE LETTER DATED 3-2-2015.

EXHIBIT P6- TRUE COPY OF THE LETTER DATED 16-3-2015.

EXHIBIT P7- TRUE COPY OF THE ORDER DATED 18-1-2003.

EXHIBIT P8- TRUE COPY OF THE ORDER DATED 21-2-2003.

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**P. N. RAVINDRAN
&
BABU MATHEW P. JOSEPH, JJ.**

W.P.(C).No.27339 of 2015

Dated this the 16th day of October, 2015

JUDGMENT

P. N. Ravindran, J.

The petitioner is a company incorporated under the Companies Act, 1956. It purchased a parcel of land, 91.02 cents in extent (corresponding to 36.85 Ares) situate in R.S.No.476/5 of Thrikkakkara North Village, Kanayannur Taluk, Ernakulam District as per sale deed registered as document Nos.2248 of 1966, 941 of 1982, 1088 of 1982, 1095 of 1982, 3557 of 1984 and 3568 of 1984 of SRO Edappally. It had also put up three buildings therein, originally numbered as XIV/1572, XIV/1569 and XIV/1570. The petitioner has been properly remitting land tax in respect of the immovable property and property tax in respect of two out of the three buildings excluding the building bearing door No.XIV/1570. It so happened that property tax was being remitted in respect of the building bearing door No.XIV/1572 in the name of Sri.P.J.Koshy, the former Managing Director of the petitioner

company and in respect of the building bearing door No.XIV/1569 in the name of Sri.Joseph P. Kurian, a former employee of the company. Sri.P.J.Koshy passed away on 08.04.1994. Sri.Joseph P. Kurian ceased to be an employee of the company on 19.06.1995 when his service was terminated.

2. Even after the death of Sri.P.J.Koshy in the year 1994 and the termination of the service of Sri.Joseph P. Kurian in the year 1995, the company was continuing to pay property tax in respect of the aforesaid buildings in their names. With a view to regularise the records, the petitioner company submitted Ext.P3 letter dated 28.02.2014 before the Secretary, Kalamassery Municipality requesting the municipality to correct the name of the owner of the building bearing door No.XIV/1572 (new No.XX/11) and building bearing door No.XIV/1569 (new No.XX/13) as "Reunion Engineering Co. Pvt. Ltd." in the municipal records. After his service was terminated, Sri.Joseph P. Kurian instituted O.S.No.299 of 1998 on the file of the Sub Court, Ernakulam seeking damages for wrongful termination of service. That

suit was decreed by judgment delivered on 11.07.2002 by directing the company to pay him the sum of ₹7,50,000/- with interest at the rate of 6% per annum from the date of suit till realisation. The said decree and judgment are under challenge by the company in A.S.No.20 of 2003 on the file of this court and the said appeal is even today pending.

3. In the said appeal, a Division Bench of this court has passed Ext.P8 interim order staying the execution of the decree passed by the trial court subject to condition that the appellant should furnish bank guarantee for the sum of ₹5,00,000/- within six weeks. The Division Bench of this court has also observed that the company shall not make any further alienation of its property pending the appeal. On coming to know of the aforesaid appeal and the interim order passed by this court, the Kalamassery Municipality declined to act on Ext.P3 representation submitted by the company. The company thereupon submitted Ext.P6 representation dated 16.03.2015 clarifying the position and stated that neither Sri.P.J.Koshy nor Sri.Joseph P. Kurian

have any interest in the property. The Kalamassery Municipality did not, however, oblige. The instant writ petition was thereupon filed on 09.09.2015 seeking the following reliefs:-

- “i) To issue a writ of mandamus or any other appropriate writ, order or direction to direct the respondent to consider application evidenced by Ext.P6 and to pass orders on it expeditiously and in accordance with law.
- ii) To issue a writ of mandamus or any other appropriate writ, order or direction to direct the respondent to accept the tax in respect of building No.XIV/1569 (now XX/11) and XIV/1572 (now XX/13) and to issue receipt for the same in the name of the petitioner.
- iii) To issue a writ of mandamus or any other appropriate writ, order or direction to direct the respondent to number the building bearing door No.XIV/1570 and to accept tax and issue receipt for the same in the name of the petitioner.”

4. We heard Sri.V.Krishna Menon, learned counsel appearing for the petitioner and Sri.M.K.Aboobacker, learned Standing Counsel appearing for the Kalamassery Municipality. We have also gone through the judges papers in A.S.No.20 of 2003. During the course of arguments today, Sri.M.K.Aboobacker, learned Standing Counsel appearing for the Kalamassery Municipality submitted that it was only on account of the pendency of A.S.No.20 of 2003 that the Kalamassery

Municipality has not taken action to correct the municipal records. Sri.Vinod Bhat, Advocate appearing for Sri.Joseph P. Kurian, the respondent in A.S.No.20 of 2003 submitted that Sri.Joseph P. Kurian has no interest in the subject matter of writ petition and that his only interest is to see that the company does not alienate the property in which the buildings stand. Learned counsel also submitted that the former employee of the petitioner company, Sri.Joseph P. Kurian has no objection in the municipal records being corrected and the name of the company being shown as the owner of the building.

5. After hearing the learned counsel appearing on both sides and after going through the judges papers in A.S.No.20 of 2003, we are of the opinion that the pendency of A.S.No.20 of 2003 in this court or the interim order passed therein cannot stand in the way of the petitioner company from getting the municipal records corrected. The claim of the former employee, namely Sri.Joseph P. Kurian is only for money and that too as compensation for wrongful termination of service. It is true that this court has directed that the petitioner company should not

alienate the property. If the property belongs to Sri.Joseph P. Kurian, such an order would not have been passed.

6. In such circumstances, we dispose of the writ petition with a direction to the Kalamassery Municipality to correct the municipal records and show the petitioner company as the owner of the buildings involved in the instant writ petition. As regards the third relief, we are of the opinion that it is for the municipality to take appropriate action as is warranted in law to number the building, make an assessment and thereafter collect property tax from the petitioner. We, however, deem it appropriate to observe that the petitioner will be bound by the interim order passed in A.S.No.20 of 2003 till it is disposed of. No costs.

Sd/-
P. N. RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

