

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 36023 of 2007 (L)

PETITIONERS:

1. C.T.JOSE
CHALISSERY HOUSE, CHALINGAD P.O.
KAIPAMANGALAM-680 681, THRISSUR DISTRICT.
2. CICILY JOSE, W/O. C.T.JOSE,
CHALISSERY HOUSE, CHALINGAD P.O.
KAIPAMANGALAM-680 681, THRISSUR DISTRICT.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT(S):

1. THE TAHSILDAR,
KODUNGALLUR
2. C.K. BALAN,
CHETTIYATTIL HOUSE, LOKAMALESWARAM
KODUNGALLUR P.O.-680664, THRISSUR DISTRICT.
3. JILESH, S/O. C.K.BALAN,
CHETTIYATTIL HOUSE, LOKAMALESWARAM
KODUNGALLUR P.O.-680664, THRISSUR DISTRICT.
4. RABEESH, S/O. C.K.BALAN,
CHETTIYATTIL HOUSE, LOKAMALESWARAM
KODUNGALLUR P.O.-680664, THRISSUR DISTRICT.
5. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE
SECRETARIAT, TRIVANDRUM.

R2 & R4 BY ADV. SRI.M.P.ASHOK KUMAR
R1 7 R5 BY GOVERNMENT PLEADER SRI K K SAIDALAVI

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

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APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE DOCUMENT NO.2246/2003 OF S.R.O MATHILAKOM BY WHICH THE FIRST PETITINER PURCHASED THE PROPERTY FROM THE 3RD RESPONDENT DATED 17-3-2008
- EXT.P2: TRUE COPY OF THE DOCUMENT NO.2245/2003 OF S.R.O., MATHIKAM BY WHICH THE 2ND PETITIONER PURCHASED THE PROPERTY FROM THE 4TH RESPONDENT DATED 17-3-2003.
- EXT.P3- TRUE COPY OF THE DOCUMENT NO.1636/1996 OF S.R.O., MATHILAKOM BY WHICH THE 2ND RESPONDENT PURCHASED THE PROPERTY DATED 30-05-1996
- EXT.P4- TRUE COPY OF THE DOCUMENT NO.3341 /2002 OF S.R.O, MATHILAKOM DATED, 22-11-2002 BY WHICH THE SECOND PETITIONER TRANSFERRED AN EXTENT OF 46 CENTS OF LAND (18.63 ARES) TO THE 4TH RESPONDENT
- EXT.P5: TRUE COPY OF THE DOCUMENT NO,3361/2002 OF S.R.O., MATHILAKOM DATED 25-11-2002 BY WHICH, THE SECOND PETITIONER TRANSFERRED AN EXTENT OF 10 CENTS OF LAND (4.05 ARES) TO THE 3RD RESPONDENT
- EXT.P6: TRUE COPY OF THE ENCUMBRANCE CERTIFICATE ISSUED TO THE PETITIONER AS NO.1057/2003 DATED, 11-3-2003 ISSUED BY THE REGISTERING OFFICE
- EXT.P7: TRUE COPY OF THE SHOW CAUSE NOTICE NO.B5.15505/98 DTD 11-06-2007 ISSUED BY THE 1ST RESPONDENT
- EXT.P8: TRUE COPY OF THE REPLY SUBMITTED BY THE 1ST PETITIONER TO THE FIRST RESPONDENT DATED, 27-06-2007
- EXT.P9: TRUE COPY OF THE ORDER ISSUED BY THE FIRST RESPONDENT AS NO.B5-15505/98 DATED, 24-07-2007

RESPONDENTS' EXHIBITS

- EXT.R2(A); PHOTOCOPY OF THE INTERIM ORDER IN CMP.NO.18169/03 IN OP 5361/00 DATED 2.04.2003
- EXT R2(B): PHOTOCOPY OF THE CLEARANCE CERTIFICATE NO.R6/1478/98 DATED 27.02.2009 ISSUED BY THE DEPUTY COMMISSINER OF EXCISE, THRISSUR
- EXT.R3(C): PHOTOCOPY OF THE CLEARANCE CERTIFICATE ISSUED BY THE CIRCLE INSPECTOR OF EXCISE, KODUNGALLUR DATED 30.09.2011

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

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Dated this the 11th day of February, 2015

J U D G M E N T

The petitioner has filed this writ petition seeking the following reliefs:-

- i) Call for the originals of the records leading to Exhibit P9;
- ii) Issue a writ of certiorari, quashing the originals of Exhibit P9;
- iii) Declare that the properties evidenced by Exhibits P1 and P2 are not liable to be proceeded against for the due of the second respondent;
- iv) Issue a writ of mandamus or any other appropriate writs, orders of directions directing the respondents 1 and 5 to conduct a detailed enquiry into the properties which are still in the ownership of the 2nd respondent and those properties which can be proceeded against under Section 44(3) of the Revenue Recovery Act for Abkari dues and further direct them proceed against those properties for the said dues;
- v) Grant such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. As per Exhibit P9, proceedings were initiated

against the properties of the petitioner by the first respondent for recovery of arrears of revenue from the second respondent. The petitioner had purchased the properties from respondents 3 and 4 who are the sons of the second respondent.

3. An affidavit has been filed by the second respondent on 09.02.2015 wherein it is stated that, the entire liability due to respondents 1 and 5 has been paid off. The Government Pleader also submits that the entire liability due to the State had been cleared. The second respondent has produced Exhibits R2(b) and R2(c) Certificates dated 27.02.2009 and 30.09.2011, which show that the entire liability has been cleared.

In view of the above, this writ petition is disposed of recording the fact that the entire liability due to respondents 1 and 2 has been cleared and that the properties of the petitioner shall not be liable to be proceeded against for recovery of any arrears of land

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revenue as sought to be in done in Exhibit P9. Exhibit P9 is accordingly set aside.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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