

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 28901 of 2015 (K)

PETITIONER :

1. **BIJOY**
S/O. JOSEPH XAVIER
PATHAYIL HOUSE, ANGADIPURAM
PUTHANANGADI P.O., PIN – 679 321
REPRESENTED BY MARY
W/O. JOSE, AGED 58 YEARS
PALATHINKAL HOUSE
KUTHUKUZH P.O., KOTHAMANGALAM.
2. **SHILBY**
W/O. BIJOY, PATHAYIL HOUSE, ANGADIPURAM
PUTHANANGADI P.O., PIN – 679 321
REPRESENTED BY MARY JOSE
W/O. JOSE, AGED 58 YEARS
PALATHINKAL HOUSE
KUTHUKUZH P.O., KOTHAMANGALAM.

BY ADV. SRI.C.DILIP

RESPONDENTS :

1. **REVENUE DIVISIONAL OFFICER**
MUVATTUPUZHA, PIN – 686 661.
2. **TAHSILDAR**
KOTHAMANGALAM TALUK
KOTHAMANGALAM, PIN – 686 691.
3. **THE VILLAGE OFFICER**
KOTHAMANGALAM VILLAGE
KOTHAMANGALAM, PIN – 686 691.
4. **THE SUB REGISTRAR**
KOTHAMANGALAM, PIN – 686 691.
5. **THE SECRETARY**
KOTHAMANGALAM MUNICIPALITY
KOTHAMANGALAM, PIN – 686 691.

R1 TO R4 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R5 BY SRI.C.A.MAJEED, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 28901 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : PHOTOCOPY OF THE POWER OF ATTORNEY DATED 10.9.2015
EXECUTED BY THE PETITIONERS.
- EXT.P2 COPY OF SALE DEED NO. 3692 OF 2011 OF SRO, KOTHAMANGALAM
DATED 21.6.2011.
- EXT.P3 PHOTOCOPY OF NOTICE DATED 23.7.2013 ISSUED BY THE FIRST
RESPONDENT AGAINST THE PETITIONERS.
- EXT.P4 PHOTOCOPY OF ORDER DATED NIL ISSUED BY THE FIRST
RESPONDENT TO RESPONDENTS 2 TO 5.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 28901 of 2015

Dated this the 25th day of September, 2015

J U D G M E N T

Petitioner, aggrieved by the order passed by the Revenue Divisional Officer produced as Ext.P4, has approached this Court.

2. By Ext.P4, the Revenue Divisional Officer interdicted transfer of registry, payment of basic tax and other related rights of the petitioner in respect of property situated in Re.Sy.No.1127/8A and 1104/5 of Kothamangalam Village. This is apparently done for reclaiming the land in violation of Act 28 of 2008.

2. This Court is of the view that Ext.P4 is not sustainable as much as the right of the person in respect of the land cannot be curtailed, except in accordance with the procedure under law. Act 28 of 2008 is a self contained Act. The authorities are free to take action against the petitioner for reclamation of land. However, payment of basic tax, transfer of registry etc. have nothing to do with those

provisions contained in the Act. Therefore, Ext.P4 is set aside. This will not preclude the authorities from taking action against the property to restore land in terms of the Act or taking such other action as warranted under the provisions of the Act. Petitioner shall not undertake any construction in the land without obtaining any formal orders from any competent authorities, if it is included in the draft data bank prepared under the Act.

This writ petition is disposed of as above.

A.MUHAMED MUSTAQUE,
Judge

MBS/

WP(C) NO.28901 OF 2015

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