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. 34935 of 2009 (J)

PETITIONER(S):

1. K.S. PADMANABHA PILLAI,
   S/O. SANKARAN KARTHA, KADEKUZHIVEETIL,
   KILAVIPPARA KARAYIL, CHINNAKKANAL VILLAGE,
   UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

2. NARAYANA PILLAI,
   S/O. SANKARAN KARTHA, KUROPPALLIL, KILAVIPPARA KARAYIL,
   CHINNAKKANAL VILLAGE, UDUMBANCHOLA TALUK,
   IDUKKI DISTRICT.

BY ADV. SRI.K.REGHU KOTTAPPURAM.

RESPONDENT(S):

1. THE TAHSIDAR,
   UDUMBANCHOLA TALUK, NEDUMKANDOM.P.O., IDUKKI DISTRICT.

2. THE REVEUE DIVISIONAL OFFICER (RDO),
   DEVIKULAM, IDUKKI DISTRICT.

3. THE SECRETARY TO GOVERNMENT,
   LAND REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER THOMAS JOHN AMBOOKAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P-1: TRUE COPY OF SALE DEED NO.597/06.

EXT.P-2: TRUE COPY OF THE ENCUMBRANCE CERTIFICATE FOR THE PERIOD 01/01/92 TO 29/03/06 IN RESPECT OF P1 PROPERTY.

EXT.P-3: TRUE COPY OF RECEIPT DATED 08/06/06 FOR POKKUVARAVU IN RESPECT OR P1 PROPERTY.

EXT.P-4: TRUE COPIES OF LAND TAX RECEIPT DATED 09/06/2006 FOR 2006-07 FOR P1 PROPERTY.

EXT.P-5: TRUE COPIES OF LAND TAX RECEIPT DATED 07/05/07 FOR 2007-08 FOR P1 PROPERTY.

EXT.P-6: TRUE COPY OF BUILDING TAX RECEIPT DATED 11/04/07 ISSUED TO 1ST PETITIONER.

EXT.P-7: TRUE COPY OF NOTICE DATED 01/01/07 ISSUED BY CHINNAKKANAL GRAMA PANCHAYATH TO 1ST PETITIONER.

EXT.P-8: TRUE COPY OF SALE DEED NO.598/06 OF SRO RAJAKUMARI.

EXT.P-9: TRUE COPY OF ENCUMBRANCE CERTIFICATE FOR 01/01/92 TO 29/03/06 IN RESPECT OF P8 PROPERTY.

EXT.P-10: TRUE COPY OF RECEIPT DATED 08/06/06 EVIDENCING POKKUVARAVU OF EXHIBIT P8 PROPERTY.

EXT.P-11: TRUE COPIES OF LAND TAX RECEIPT DATED 09/06/06 FOR 2006-07 IN RESPECT OF P8 PROPERTY.

EXT.P-12: TRUE COPY OF LAND TAX RECEIPT DATED 07/05/07 FOR 2007-08 IN RESPECT OF P8 PROPERTY.

EXT.P-13: TRUE COPY OF BUILDING TAX RECEIPT DATED 11/04/07 FOR 2006-07 ISSUED TO 2ND PETITIONER.

EXT.P-14: TRUE COPY OF RECEIPT DATED 07/05/07 FOR REMITTANCE OF WELFARE FUND.

EXT.P-15: TRUE COPY OF NOTICE DATED 01/01/07 ISSUED BY CHINNAKKANAL GRAMA PANCHAYATH TO 2ND PETITIONER.

EXT.P-16: TRUE COPY OF ASSIGNMENT CERTIFICATE NO.373 UNDER LA 8/82/CHIN. DATED 27/07/82.

EXT.P-17: A TRUE COPIES OF LAND TAX RECEIPT DATED 28/03/06 ISSUED TO GEORGE.

EXT.P-18: A TRUE COPY OF RECEIPT DATED 28/03/06 EVIDENCING PAYMENT OF WELFARE FUND BY GEORGE.

EXT.P-19: TRUE COPY OF NOTICE DATED 17/11/09 ISSUED BY 1ST RESPONDENT.

EXT.P-20: TRUE COPY OF FIR VIDE CRIME NO.117/08 OF SANTHANPARA POLICE.

EXT.P-21: TRUE COPY OF PROCEEDINGS NO.K2-100/08/CAN/16 DATED 10/04/08.

EXT.P-22: TRUE COPY OF REPORT DATED 20/07/09 FILED BY 1ST RESPONDENT.

EXT.P-23: TRUE COPY OF LETTER NO.K2-100/08 DATED 21/04/08 BY TAHASILDAR.

RESPONDENT(S)' EXHIBITS :

EXT.R1(A): TRUE COPY OF THE THANDAPER NO.4010.

EXT.R1(B): TRUE COPY OF THE THANDAPER NO.4007.

EXT.R1(C): TRUE COPY OF THE THANDAPER NO.1108.

EXT.R1(D): TRUE COPY OF THE ENDORSEMENT (NOTICE TO THE PETITIONER) SUBMITTED BY THE VILLAGE OFFICER.

EXT.R1(E): TRUE COPY OF THE NOTICE TO SRI.GEORGE.

EXT.R1(F): TRUE COPY OF THE PROCEEDINGS NO.K2-100/08/CAN/16 DATED 10/04/2008.

EXT.R1(G): TRUE COPY OF THE 'B' REGISTER.

EXT.R1(H): TRUE COPY OF THE PORAMBOKE REGISTER.

EXT.R1(I): TRUE COPY OF THE THANDAPER NO.1069.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.34935 of 2009

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Dated this the 25th day of September, 2015

JUDGMENT

The petitioners have approached this Court challenging Ext.P21 order of the Tahsildar, Udumbanchola Taluk. By Ext.P21, Thandaper account as well as patta No.18/82 has been cancelled finding that patta has been created fraudulently. According to the petitioners, actually, the petitioners' patta number is 8/82. However, by Ext.P21, petitioners Thdandaper account has been cancelled. The Thandaper account of the petitioners is T.P.Nos.4007 and 4010.

2. This Court is of the view, in fact, finding in Ext.P21 itself that LA 18/82 is a forged patta. In fact, Thandaper account, according to the petitioners, has no corresponding relation to the aforesaid patta. The corresponding T.P.Nos.4007 and 4010 is LA 8/82, which is not cancelled sofar. It is also seen that the petitioners have not given an opportunity in this matter. If LA 8/82 is not cancelled, consequently, corresponding T.P.Nos.4007, 4010 also cannot be cancelled.

In view of the above, this Court is of the view, Ext.P21 is liable to be set aside. The fresh decision shall be taken by the first respondent in respect of the Thandaper account as above. If the first respondent also feels that the assignment as per LA 8/82 is liable to be cancelled, then he has to refer the matter before the Land Assignment Tahsildar according to Rule 8(3) of the Kerala Land Assignment Rules, 1964, who has jurisdiction or to the authority which has jurisdiction. Therefore, this writ petition is disposed of with the above directions. With the above liberty, fresh orders shall be passed within three months from the date of receipt of a copy of this judgment.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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