

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 31370 of 2015 (U)

PETITIONER :

**N.G.RADHAKRISHNAN NAIR,
S/O LATE GOPALAPILLAI, NEYYATHURUTHIL (SARANYA),
ERAVIPEROOR, ERAVIPEROOR P.O, THIRUVALLA,
PATHANAMTHITTA DISTRICT, REPRESENTED BY HIS POWER OF
ATTORNEY HOLDER N.G. GOPINATHAN NAIR,
S/O LATE GOPALAPILLAI, NEYYATHURUTHIL (SARANYA),
ERAVIPEROOR, ERAVIPEROOR P.O, THIRUVALLA,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL LINES, PATHANAMTHITTA-680 645**
- 2. THE TAHASILDAR,
TALUK OFFICE, THIRUVALLA, THIRUVALLA P.O.,
PATHANAMTHITTA-689 101**
- 3. THE VILLAGE OFFICER,
ERAVIPEROOR VILLAGE, ERAVIPEROOR P.O, THIRUVALLA,
PATHANAMTHITTA-689 545**
- 4. THE DEPUTY DIRECTOR OF SURVEY,
PATHANAMTHITTA, PATHANAMTHITTA P.O,PIN- 689 645**

BY GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 31370 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE TAX RECEIPT DT. 12/1/94 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER**
- EXT.P2: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE 3RD RESPONDENT FOR THE PERIOD 2012-2015 TO THE PETITIONER**
- EXT.P3: TRUE COPY OF THE APPLICATION DT. 23/2/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT AND ITS RECEIPT NO.7077/3/15/C3 DT. 23/2/2015**
- EXT.P4: TRUE COPY OF THE JUDGMENT DT. 4/3/2015 IN WPC.NO. 6879/2015 OF THIS HON'BLE COURT**
- EXT.P5: TRUE COPY OF THE ORDER C3-14496/15 DT. 11/8/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**

RESPONDENT(S)' EXHIBITS

- EXT.R2(A): TRUE COPY OF THE SURVEY PLAN PREPARED BY THE TALUK SURVEYOR.**

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

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W.P(C)No.31370 of 2015

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Dated this the 2nd day of December, 2015

JUDGMENT

Petitioner claims 124 ½ cents of property comprised in Re-Survey No.575/1, 588/12-A and 575/5/1 of Eraviperoor Village by virtue of Sale Deed No.3203/1982 and 3206/1982.

2. Petitioner approached District Collector under Section 13(A) of the Survey and Boundaries Act alleging anomalies in re-survey. District Collector, finding that the petitioner is attempting to claim Government land as part of his land, passed Ext.P5 order. Petitioner challenges the said order before this Court.

3. In the counter filed by the 2nd respondent, it is stated in paragraph 6 as follows:

“It is respectfully submitted that as per the report submitted by the Taluk Surveyor it has been found that there has a mistake been crept in to the resurvey record for an extent of 1 Are, regarding the area lawfully held by the petitioner. The remaining area having an extent of 6.12 Ares are reported to be

under the unauthorized occupation of the petitioner. The report and the survey maps prepared by the Taluk Surveyor were submitted to the District Collector, Pathanamthitta. After due consideration of the materials submitted before him and affording an opportunity for the petitioner to be heard, the 1st respondent has issued the order directing the 2nd respondent to rectify the discrepancy regarding the area of 1 Are in accordance with the relevant provision of the Survey and Boundaries Act. At the same time it has also been ordered to initiate steps against the petitioner to evict him from the unauthorized occupation of Government property as per the provisions of the Kerala Land Conservancy Act.”

4. It is further stated in paragraph 3 as follows:

“As per the title deeds produced by the petitioner, the land, he is entitled to 124 cent comprised in old survey No.575/5 and 575/12. As per the field verification report submitted by the Taluk Surveyor, the area in the possession of the petitioner includes parts of old survey Nos.5888, 588/11, 588/13 which are Government land even, as per the old survey records.”

5. This Court is of the view that apart from the issue relating to re-survey, identity of the petitioner's property is also involved. The Tahasildar has to identify petitioner's property as well as the Government land by measuring and demarcating. Therefore, the following directions are issued.

6. The Tahasildar, 2nd respondent, shall identify the property claimed by the petitioner with the title deed and demarcate the same. Tahasildar also shall demarcate the Government land. In such circumstances, Ext.P5 is liable to be set aside as the reference made in Ext.P5 is only based on the re-survey records and not based on the title deed claimed by the petitioner.

7. The needful shall be done within three months from the date of receipt of a copy of this judgment.

Writ petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE,
JUDGE