

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 31668 of 2014 (G)

PETITIONER(S):

**SANTHA,
W/O.LATE KARIYATHAN, NALUVAYAL LAKSHAM VEEDU COLONY,
THALAKALATHOOR VILLAGE, KOZHIKODE DISTRICT.**

BY ADV. SMT.BIMALA BABY

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE REVENUE COMMISSIONER,
OFFICE OF THE REVENUE COMMISSIONER
THIRUVANANTHAPURAM. 695 001.**
- 3. THE DISTRICT COLLECTOR,
COLLECTORATE, KOZHIKODE. 673 001.**
- 4. THE TAHSILDAR,
TALUK OFFICE, KOZHIKODE. 673 001.**
- 5. THE VILLAGE OFFICER,
THALAKALATHUR VILLAGE, KOZHIKODE DISTRICT. 673 101.**
- 6. ASOKAN,
NALUVAYAL LAKSHAMVEEDU, THALAKULATHOOR,
KOZHIKODE. 673 101.**

R1-5 BY GOVERNMENT PLEADER SRI.GIKKU JACOB

R6 BY ADV. SMT.G.VIDYA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE PATTAYAM NO.670 DATED 25.7.1990 ISSUED TO KARIYATHAN CHIRAVAKKAL.**
- P2- TRUE COPY OF THE REPORT OF THE 5TH RESPONDENT DATED 13.12.2012 TO THE 4TH RESPONDENT.**
- P3- TRUE COPY OF THE PATTAYAM NO.826 ISSUED IN FAVOUR OF THE 6TH RESPONDENT.**
- P4- TRUE COPY OF THE SAID REPRESENTATION DATED 18.8.2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.31668 of 2014

Dated this the 7th day of September, 2015

JUDGMENT

The petitioner is a widow of one Kariyathan Chiravakkal. The husband of the petitioner was issued with Patta under the Kerala Land Assignment Rules. Ext.P1 is the Patta. In Ext.P1, the survey number is shown as 204/2. The petitioner approached this Court challenging issuance of Patta in respect of the same survey number in favour of the 6th respondent.

2. In this matter, a counter affidavit has been filed by the 4th respondent. It is stated in the counter affidavit that the 6th respondent is in possession of the land pursuant to the oral transfer effected by the petitioner's late husband 18 years ago. It is the case that the 6th respondent is not in possession of the property. It is contended that in view of the possession, fresh patta has been issued in favour of the 6th respondent.

3. Taking note of the fact that there is a discrepancy in the survey number of the land referred in Ext.P1 and the actual Survey Number is 401/11 of Thalakkathur Village. This Court is of the view that Ext.P1 patta is issued in favour of late husband of the petitioner, fresh patta can be issued only in the name of the petitioner after issuing notice

to the petitioner. Certainly, it is in the province of the 4th respondent to conduct enquiry, who is in possession of the property. The petitioner claims that she is in possession of the property and the 6th respondent claims that he is in possession of the property. It is also to be find out whether the land assigned as per Ext.P1 is transferrable or not. If the land is not transferrable, no patta can be issued in favour of the 6th respondent.

4. Further, even if to correct the survey number, that can be done only in the name of the legal heirs of Karyathan Chiravakkal. The Tahsildar shall conduct an enquiry in this matter after hearing the petitioner and the 6th respondent and after adverting to the possessory right in respect of the land referred as above and also considering the factum of right of alienation as per Ext.P1. Needful shall be done by the Tahsildar within a period of three months. In view of the fact that Ext.P3 patta has been issued without conducting enquiry and giving an opportunity of hearing to the petitioner, the same is ordered to be cancelled.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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