IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 31753 of 2015 (T)

PETITIONER :

E.R.SANTHA,
W/O.T.S.SIDHARTHAN, AGED 72 YEARS,
"CHAITHANYA", EDAPPLLAY NORTH,
ERNAKULAM, COCHIN-682 024.

BY ADV. SRI.K.R.RADHAKRISHNAN NAIR

RESPONDENT(S):
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1. STATE OF KREALA,
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.

*4. THE VILLAGE OFFICER,
ERNAKULAM NORTH VILLEGE, ERNAKULAM. (CORRECTED)

*(ADDRESS OF R4 IS CORRECTED AS
"THE VILLAGE OFFICER,
EDAPPALLY NORTH VILLAGE, ERNAKULAM"
AS PER ORDER DATED 02.11.2015 IN IA.NO.15931/2015).

5. THE DEPUTY COMMISSIONER
EXCISE DEPARTMENT, KODAGU DISTRICT, MADIKERI,
KARNATAKA STATE.

BY GOVERNMENT PLEADER SRI.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 31753 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1.	TRUE COPY OF THE SALE DEED NO.3529/1978 OF EDAPPALLY SUB REGISTRY.
EXT.P2.	TRUE COPY OF THE LAND TAX RECEIPT NO.44946
EXT.P3.	TRUE COPY OF THE LAND TAX RECEIPT NO.46290
EXT.P4.	TRUE COPY OF THE APPLICATION DATED 10/9/2015 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT
EXT.P5.	TRUE COPY OF THE COMMUNICATION DATED 23/2/2015 OF THE 3RD RESPONDENT
EXT.P6.	TRUE COPY OF THE LETTER NO.EXE/III/ARK/RNT1/28(1)/1985-86 DATED 19/2/2015 ISSUED BY THE 5TH RESPONDENT
EXT.P7.	TRUE COPY OF THE AFFIDAVIT DATED 28/1/2015 SUBMITTED BY THE PETITONER'S HUSBAND BEFORE THE 5TH RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31753 OF 2015 (T)

Dated this the 6th day of November, 2015

J U D G M E N T

The grievance of the petitioner in the writ petition is with regard to the non-issuance of a possession certificate by the 4th respondent in respect of property which is in her possession. It is the case of the petitioner in the writ petition that when she had approached the 4th respondent, for payment of tax in respect of the item of property, and for the issuance of a possession certificate in respect of the same, the request was denied by the 4th respondent on the ground that there were proceedings under the Kerala Revenue Recovery Act initiated against the said property.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the stand of the 4th respondent with regard to non-issuance of a possession

certificate and refusal to accept tax in respect of the property, cannot be legally countenanced. The 4th respondent, when approached by a person in possession of the land, for payment of tax and issuance of a possession certificate, is legally obliged to look into the aspect of whether the person approaching him is in actual possession of the land, and if found to be so, to issue him/her a possession certificate evidencing the said fact. Taking note of the fact that revenue recovery proceedings are pending against the said property, which have not reached the stage of attachment of the property in question, for the purposes of sale, I dispose the writ petition with the following directions:

> (i) The 4th respondent shall, on the petitioner approaching him with an application for acceptance of tax in respect of the property as also for the issuance of a possession certificate, accept the tax in respect of the property and issue a possession certificate to the petitioner in respect of the said property, if she is found to be in actual possession of the same, within a period of three weeks from the date of receipt of a copy of this judgment.
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> (ii) It will be open to the 4th respondent, while issuing the possession certificate to the petitioner, to mention

the fact of pendency of revenue recovery proceedings against the property, in the possession certificate to be issued to the petitioner.

(iii) The right of the petitioner to challenge the validity of the revenue recovery proceedings initiated against her is left open to be decided in appropriate proceedings.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/6/11/15