

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 32096 of 2014 (J)

PETITIONER(S):

**A. PRINCE, S/O.ANPAIAH,
AGED 52 YEARS, RESIDING AT CHIPPIYIL HOUSE,
20 ROOM LINES, GRAHAMS LAND ROAD,
MUNNAR, PIN - 685 612.**

BY ADV. SRI.N.M.VARGHESE.

RESPONDENT(S)/RESPONDENTS:-:

- 1. STATE OF KERALA,
TO BE REPRESENTED BY THE SECRETARY,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE SUB COLLECTOR,
DEVIKULAM, DEVIKULAM P.O., PIN - 685 613.**
- 3. THE TAHSILDAR, DEVIKULAM,
TALUK OFFICE, DEVIKULAM P.O.,
PIN - 685 613.**
- 4. THE VILLAGE OFFICER,
KANNAN DEVAN HILLS VILLAGE,
VILLAGE OFFICE, DEVIKULAM P.O., PIN - 685 613.**

BY SPL. GOVT. PLEADER (REVENUE) SMT.SUSHEELA R.BHAT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 32096 of 2014 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. COPY OF PATTA NO.LA59/2000 DATED 16.07.2002 ISSUED IN THE NAME OF THE PETITIONER.**
- EXHIBIT P2. COPY OF CERTIFICATE OF ENCUMBRANCE NO.6009/2014 DATED 26.11.2014 CONCERNING THE PROPERTY.**
- EXHIBIT P3. COPY OF NOTICE OF THE ADALATH DATED 15.07.2008 ISSUED TO THE PETITIONER.**
- EXHIBIT P4. COPY OF PETITION DATED 29.10.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT TAHSILDAR.**
- EXHIBIT P5. COPY OF JUDGMENT OF THIS HON'BLE COURT DATED 14.08.2014 PASSED IN W.P.(C)NO.12885/2014- (I).**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 32096 of 2014

Dated this the 11th day of February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- (i) Call for the entire records from the respondents related to the issue raised in the writ petition and pertaining to the Exhibits produced;
- (ii) Issue a writ of mandamus directing the 3rd respondent to consider and take appropriate steps on Ext.P4 petition made by the petitioner urging mutation of property in accordance with law after affording an opportunity of being heard if necessary, within a time frame;

2. The case of the petitioner is that, Ext.P1 Patta bearing No. LA59/2000 dated 16.07.2002 was issued in the name of the petitioner with regard to rights over 4 cents of land in Sy.No.843/A of the KDH Village. It is stated that, the petitioner was enjoying the said property to the exclusion of all others ever since then. It is stated that, there is no encumbrance in respect of the said property as evident from Ext.P2 Certificate dated 26.11.2014. The petitioner made application for mutation to be effected in terms of the 'Transfer of Registry Rules' before the 3rd

respondent as evident from Ext.P4. The same is still to be acted upon and hence the writ petition.

3. A statement has been filed on behalf of the 3rd respondent; paragraph 2 of which reads as follows:

"2. It is submitted that the grievance of the petitioner is that even after the submission of application for mutation of his property extending 4 cents comprised in Survey No.843/A of KDH village, the respondents are not willing to effect the same. The petitioner states that he had obtained 4 cents of land comprised in survey No.843/A of KDH village by way of Patta No.LA 59/2000 dated 16.07.2002. But on verification of the No.1 register of KDH village, no such name of the petitioner is seen in that register in the year 2000. Moreover, no such LA file is found in this office. The petitioner had submitted an application for mutation only on 29.10.2014 which is 12 years after the issuance of the patta."

4. The basic dispute appears to be with regard to the rights and interests over the property concerned with reference to Ext.P1. According to the 3rd respondent, the petitioner's name is not seen in the concerned Register with reference to the land comprised in Sy.No.843/A of KDH Village allegedly covered under Patta No.LA59/2000 dated 16.07.2000. It is also stated that, the application for mutation was preferred by the petitioner for the

first time only after 12 years of issuance of Ext.P1 Patta.

5. This Court finds that the matter requires to be considered by the District Collector so as to ascertain the actual particulars. If the version of the 3rd respondent is not correct, or if any delinquency is found out on the part of the concerned Officer, who has stated that no such LA file is found in the office, appropriate steps have to be taken. On the other hand, if the version of the petitioner is not true and if no such 'Patta' as Ext.P1 was issued, it of course is a matter to be enquired in to, to consider whether any offence is involved on the part of the petitioner and if so what are the steps to be pursued including by way of prosecution proceedings, if necessary. A fact which is to be considered is that, how Ext.P2 'Encumbrance Certificate' came to be issued with reference to the extent of 4 cents as comprised in Sy.No. 843/A of the KDH Village specifically referring to L.A. No.59/2000 therein. All these matters shall be considered by the District Collector and a 'speaking order' shall be passed after affording an opportunity of hearing to all the concerned parties, including the petitioner herein and also the 3rd respondent. It shall be done, at the earliest, at any rate, within 'four weeks' from

the date of receipt of a copy of this judgment.

6. It is made clear that if the version of the petitioner is true and correct, necessary relief shall also be given to him by causing the mutation to be effected in accordance with law.

Disposed of accordingly. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn