

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 33005 of 2014 (A)

PETITIONER :

**P.RAJEENDRAN, S/O.KUNJAPPAN, AGED 45 YEARS,
RESIDING AT SPARTA 1/006, PRESTIGE,
ACROPOLIS KORAMANGALA, BANGALORE.**

BY ADV. SRI.P.T.JOSE

RESPONDENT(S):

- 1. M/S. GOODWAY BUSINESS CORPORATION LIMITED.,
REPRESENTED BY THE OFFICIAL LIQUIDATOR,
HIGH COURT OF KERALA COMPANY LAW BHAVAN, 3RD FLOOR,
B.M.C. ROAD, THRIKKAKARA P.O, KOCHI-21.**
- 2. THE VILLAGE OFFICER,
ELAMKULAM VILLAGE, KADAVANTHRA P.O.,PIN- 682 020**
- 3. THE TAHASILDAR,
TALUK OFFICE, KANAYANNUR TALUK, KOCHI,PIN- 682 011**
- 4. ASSISTANT EXECUTIVE ENGINEER,
EAST ZONAL OFFICER, CORPORATION OF COCHIN,
VYTTILA P.O.,PIN- 682 019**
- 5. THE CORPORATION OF COCHIN,
REP. BY THE SECRETARY CORPORATION OF COCHIN,
KOCHI -682 011.**

**R1 BY ADV. SRI.P.K.MONI
R2 TO R4 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R5 BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 33005 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 COPY OF WINDING UP ORDER DATED 30/9/2009 PASSED BY THE
HON'BLE HIGH COURT OF KERALA**
- EXHIBIT P2 COPY OF THE ORDER DATED 1/3/2010 PASSED BY THE HON'BLE HIGH
COURT OF KERALA**
- EXHIBIT P3 COPY OF THE ENCUMBRANCE CERTIFICATE DATED 10/10/2014
ISSUED BY SUB REGISTRAR ERNAKULAM**
- EXHIBIT P4 COPY OF THE POSSESSION CERTIFICATE DATED 17/10/2014 ISSUED
BY VILLAGE OFFICER ELAMKULAM**
- EXHIBIT P5 COPY OF THE ORDER BEARING NO.KRP2 -654/14 PASSED BY 4TH
RESPONDENT ASST. EXECUTIVE ENGINEER**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.33005 of 2014

Dated this the 8th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"a. To issue a writ of mandamus or other appropriate writ order of direction commanding the 2nd and 3rd respondents to accept property tax from the petitioner's 10 cents and 250 sq. links in Survey No.447/4 and 447/5 of Elamkulam Village with building No.37/712 obtained as per the sale deed No.2128/2006 of SRO, Ernakulam and issue tax receipt for the same to the petitioner within a stipulated time as directed by this Hon'ble Court notwithstanding the attachments including Income Tax Department as per Exhibit P3 and P4.

b. To declare that the petitioner is entitled to get the Tax Receipt of 10 cents and 250 sq. Links in survey No.447/4 and 447/5 of Elamkulam Village with building No.37/712 obtained as per the sale deed No.2128/2006 of SRO, Ernakulam notwithstanding the attachment including Income Tax Department as per Exhibit P3 and P4.

c. To issue a writ of mandamus or other appropriate writ order of direction commanding the 4th respondent to accept and sanction the plan submitted by the petitioner by set aside Exhibit P5 order in the light of Exhibit P1 order passed by this Hon'ble Court.

d. To issue such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

e. To issue such other writs, orders or directions as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Heard the learned counsel for the petitioner, the learned

Standing Counsel appearing for the Official Liquidator, the learned Government Pleader appearing for the respondents 2 to 4 and also the learned Standing Counsel appearing for the 5th respondent Corporation.

3. The learned counsel appearing on behalf of the respondents submits that the respondents do not have any objection in granting the reliefs sought for by the petitioner, in so far as the property is a personal property belonging to the petitioner, which is no way connected with the affairs of the 1st respondent Company, which is under liquidation. It is however added that, there is an order restraining the said property to be alienated as per the orders passed by the Company Court in this regard.

4. In so far as the relief sought for by the petitioner is only to enable the petitioner to satisfy the property tax and to be accepted by the Revenue authorities, there will be a direction to the 2nd respondent Village Officer to accept tax from the petitioner in terms of the relevant statute as and when the same is tendered. The rights and liberties of the parties concerned will

stand governed by the orders to be passed by the Company Court in the appropriate proceedings.

5. The learned counsel for the petitioner submits that, the application preferred by the petitioner for granting permit before the 4th respondent to effect the construction has been rejected as per Ext.P5, referring to Ext.P2 order passed by this Court and also in view of the liability to be cleared to the Income Tax Department. In so far as there is already an order restraining the alienation of the property concerned, the request made by the petitioner to consider the application for effecting the construction need not be kept in abeyance and if at all any construction is effected by the petitioner in terms of the permit to be issued from the Corporation, it will only add to the capital value of the property concerned and that no prejudice whatsoever will be caused to any of the respondents.

In the said circumstances, Ext.P5 will stand set aside and the 5th respondent Corporation is directed to reconsider the application filed by the petitioner for granting the permit for effecting the construction, in accordance with law, subject to

production of the tax receipt, upon tendering the same before the 2nd respondent. The proceedings as above shall be finalised at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before respondents 2 and 5, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp