IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 33098 of 2014 (J)

PETITIONER:

PIOUS PARAYIL, AGED 81 YEARS
S/O. THOMAS, PARAYIL HOUSE, MALLAPUZHASSERY
ARANMULA P.O., PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA

RESPONDENTS:
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1. THE VILLAGE OFFICER
MULLAPPUZHASSERY VILLAGE
PATHANAMTHITTA DISTRICT-689533.

2. THE DISTRICT COLLECTOR
PATHANAMTHITTA DISTRICT,
PATHANAMTHITTA-689647.

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 33098 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE SALE DEED NO. 71/1987 DATED 14-01-1987.

EXHIBIT P2- TRUE COPY OF THE TAX RECEIPT DATED 21-01-1997.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.33098 OF 2014

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Dated this the 19th day of February, 2015

JUDGMENT

The petitioner is the owner in possession of 1.85 Ares of property comprised in Survey No.273/25 (Re-Sy.No.58/2) of Mullappuzhassery Village, Pathanamthitta District. The petitioner came into possession of the above property by virtue of Ext.P1 Sale Deed No.71 of 1987 dated 14.01.1987 of Kozhencherry S.R.O. After the purchase of the property as above, mutation was effected making necessary entries in terms of transfer of Registry Rules and the petitioner was in enjoyment of the property by also remitting the basic tax in terms of Kerala Land Tax Act, as borne by Ext.P2 tax receipt. Subsequently, when the petitioner approached the respondents for remitting the tax in respect of the subsequent period, the same was refused to be accepted referring to pendency of a civil case as O.S.No.1220/1999 of the Munsiff's Court, Alappuzha. This made the petitioner to approach this Court for immediate interference.

2. The learned Government Pleader points out that there is inordinate delay on the part of the petitioner in so far as no tax was remitted by the petitioner after the year 1999, and as such, it is necessary to substantiate that the property and its enjoyment stand at the hands of the petitioner even as on this day, for which, production of up-to-date encumbrance fee certificate is necessary.

3. The learned counsel for the petitioner points out that the civil suit as mentioned above, is in no way connected with the title of the petitioner and further that the same is not pending as on date. In any view of the matter, attachment if at all ordered by the civil court cannot place any hurdle with regard to the acceptance of the tax under the Kerala Land Tax Act in view of the law declared by this Court as per the decision reported in ***'Joseph Kurian v. Village Officer'*** [2010 (3) KLT 251].

4. In the above circumstances, the petitioner is set at liberty to produce the up-to-date encumbrance fee certificate along with a certified copy of the title deed before the 1st

respondent, upon which, the land tax payable in respect of the property covered by Ext.P1 shall be accepted subject to satisfaction of all other legal requirements.

The writ petition stands disposed of accordingly.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. to Judge

St/-