

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 33784 of 2014 (W)

PETITIONER(S) :

1. SEBASTIAN VADAKKAN, AGED 47 YEARS,
S/O.JOSEPH, VADAKKAN HOUSE, ELAMBACHI P.O.
KASARAGOD DISTRICT, PIN - 671 311.
2. REJI SEBASTIAN
W/O.SEBASTIAN, VADAKKAN HOUSE, ELAMBACHI P.O.,
KASARAGOD DISTRICT, PIN - 671 311.
3. PRAKASAN, S/O.CHATHUKUTTY NAMBIAR, PIADAKATH HOUSE,
KAKOMKAL, TALIPARAMBA TALUK, KANNUR - 670 307.
4. SHRUTHIRA V.SEBASTIAN
D/O.SEBASTIAN, VADAKKAN HOUSE, ELAMBACHI P.O.,
KASARAGOD DISTRICT, PIN - 671 311.
5. CHRISTEENA V.SEBASTIAN
D/O.SEBASTIAN, VADAKKAN HOUSE, ELAMBACHI P.O.,
KASARAGOD DISTRICT, PIN - 671 311.

BY ADVS.SRI.GRASHIOUS KURIAKOSE (SR.)
SRI.SEBASTIAN JOSEPH (KURISUMMOOTIL)

RESPONDENT(S) :

1. THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT COLLECTOR, KANNUR - 679 002.
3. TAHSILDAR
TALIPARAMBA TALUK, KANNUR DISTRICT, PIN - 679 145.
4. THE VILLAGE OFFICER,
ALAPPADAMBA VILLAGE, P.O.MATHIL,
PAYYANNUR (VIA) PIN - 679 301.

BY ADV.GIKKU JACOB, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33784 of 2014 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1:** COPY OF THE GIFT DEED NO. 562/85 OF S.R.O., PAYYANNUR.
- EXHIBIT P2:** COPY OF THE PURCHASE CERTIFICATE NO. 289/1984 DATED 09/07/1984 OF THE LAND TRIBUNAL, KANNUR.
- EXHIBIT P3:** COPY OF THE JENMAM DEED NO. 2314/85 OF S.R.O., PAYYANNUR.
- EXHIBIT P4:** COPY OF THE PURCHASE CERTIFICATE NO. 74 (A) OF 1985 DATED 14/02/1985.
- EXHIBIT P5:** COPY OF THE ORDER DATED 29/03/2012 IN WPC 29148/2011 OF THIS HONOURABLE COURT.
- EXHIBIT P6:** COPY OF COUNTER AFFIDAVIT FILED IN WPC 29148/2011 ON 25/02/2012
- EXHIBIT P7:** COPY OF THE ADDITIONAL COUNTER AFFIDAVIT FILED ON 26/03/2012.
- EXHIBIT P8:** COPY OF THE TAX RECEIP ISSUED BY THE VILLAGE OFFICER.
- EXHIBIT P9:** COPY OF THE JUDGMENT DATED 12/03/2013 IN WPC.NO. 6833/2013 OF THIS HONOURABLE COURT.
- EXHIBIT P10:** COPY OF POSSESSION CERTIFICATE DATED 01/04/2013 IN FAVOUR OF PETITIONRS.
- EXHIBIT P11:** COPY OF THE LAND TAX RECEIPT DATED 05/04/2013.
- EXHIBIT P12:** COPY OF THE PROCEEDINGS NO. 6833/2013 DATED 29/04/2013 OF THE VILLAGE OFFICER.
- EXHIBIT P13:** COPY OF PETITION FILED BY THE PETITIONERS 1 AND 2 BEFORE THE DISTRICT COLLECTOR ON 10/05/2013.
- EXHIBIT P14:** COPY OF THE SALE DEED NO. 1957/2013 DATED 21/05/2013 OF S.R.O., PAYYANNUR.
- EXHIBIT P15:** COPY OF APPLICATION FOR TRANSFER OF REGISTRY (MUTATION) UNDER THE PROVISIONS OF TRANSFER OF REGISTRY RULES FILED BY THE 3RD PETITIONER BEFORE THE 4TH RESPONDENT.
- EXHIBIT P16:** COPY OF THE JUDGMENT DATED 24/09/2013 IN WPC NO. 22946/2013 OF THIS HONOURABLE COURT.
- EXHIBIT P17:** COPY OF THE JUDGMENT DATED 03/10/2013 IN WPC NO. 23166/2013 OF THIS HONOURABLE COURT.
- EXHIBIT P18:** COPY OF PROCEEDINGS NO. 6833/2013 DATED 28/10/2013.
- EXHIBIT P19:** COPY OF THE STATEMENT AND THE ADDITIONAL STATEMENT FILED BEFORE THE 3RD RESPONDENT.

Contd...3/-

AMV

: 3 :

WP(C).No. 33784 of 2014 (W)

- EXHIBIT P20:** COPY OF PROCEEDINGS NO. 354763/2013/H4 DATED 11/09/2014 OF THE 3RD RESPONDENT.
- EXHIBIT P21:** COPY OF THE ORDER OF THE LAND BOARD DATED 23/10/1976 IN PROCEEDINGS NO. 30624/71.
- EXHIBIT 22:** COPY OF THE INFORMATIONS SOUGHT FOR AND THE DETAILS FURNISHED BY THE PUBLIC INFORMATION OFFICER, O/O.TAHSILDAR.
- EXHIBIT P23:** COPY OF THE SIMILAR INFORMATIONS SOUGHT FOR AND THE DETAILS FURNISHED BY THE OFFICE OF THE VILLAGE OFFICER, ALAPPADAMBA.
- EXHIBIT P24:** COPY OF COMMUNICATION NO. B8-2956/12 DATED 09/06/2014 ISSUED BY THE LAND REVENUE COMMISSIONER.

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

P.A.TO JUDGE

AMV

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 33784 of 2014

Dated this the 20th day of October, 2015

JUDGMENT

The petitioners trace out the title of ownership in respect of the property covered in Survery No.2/1A of Alappadamba Village in Thaliparamba Taluk based on Exts.P2 and P4 purchase certificate. The petitioners approached this Court on account of non-acceptance of land tax and also for non- effecting mutation based on the subsequent sale effected by the original owners in favour of the 3rd petitioner.

2. The learned Government Pleader, on instructions, submits that after re-survey, the petitioner's land is now shown as a Government land and therefore, the petitioner's request cannot be accepted.

3. This Court is of the view that the matter is essentially relating to the identity of the property. Once

the patta is issued, that property can be identified with reference to the records of the Authority. If the inclusion of the petitioner's land after re-survey as a Government land, it is a mistake that has to be corrected.

Considering the facts and circumstances, the following directions are issued :

- i) The Tahsildar, Taliparamba is directed to demarcate the petitioner's property based on Exts.P2 and P4 purchase certificate and issue a sketch to the petitioners based on the identification of the property.
- ii) If it was erroneously included as a Government land, the same shall be corrected by appropriate orders.
- iii) Thereafter, necessary action shall be taken to effect the transfer of Registry as well as acceptance of basic tax.
- iv) Needful shall be done within a period of two months from the date of receipt of a copy of this judgment after hearing the petitioners.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE