IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 34546 of 2014 (P)

PETITIONER :

BIJILY.S, AGED 45 YEARS,S/O.SUKUMARAN,
KALLUR THUNDATHIL HOUSE, KOLLAPPALLY,
KADANADU P.O., MEENACHIL, KOTTAYAM DISTRICT-686 653.

BY ADVS.SRI.THOMSTINE K.AUGUSTINE
SRI.K.C.THOMAS (PALA)

RESPONDENT(S):
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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
DEPARTMENT OF TAX, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE SUPERINTENDENT OF GOVERNMENT PRESSES,
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM-695 001.

3. THE SUB REGISTRAR,
SUB REGISTRAR'S OFFICE, KIDANGOOR,
KOTTAYAM DISTRICT-686 572.

4. P.T.BABY,
THOTTATHIL HOUSE, KUMMANNUR, KIDANGOOR P.O.,
KOTTAYAM DISTRICT-686 572.

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.34546/2014

APPENDIX

PETITIONER'S EXHIBITS:

P1	**COPY OF THE SALE DEED NO.834/2011 OF SRO KIDANGOOR DATED 30/5/2011**
P2	**COPY OF THE TAX RECEIPT NO.3637606 DATED 5/12/2014 ISSUED BY THE KIDANGOOR VILLAGE OFFICE.**
P3	**COPY OF THE NOTIFICATION NO.A/4657/13 DATED 23/12/2013 ISSUED BY THE REVENUE DIVISIONAL OFFICER, PALA.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C)No.34546 OF 2014

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Dated this the 6th January, 2015

<u>J U D G M E N T</u>

The petitioner purchased the property having an extent of 27.17 cents comprised in Re.Sy.No.177, as per Sale Deed No.834/11 of SRO, Kidangoor on 30.05.2011. The petitioner intends to sell the said property to the 4th respondent /P.T. Baby, who has come forward to purchase the same. The petitioner contends that the property is of irregular shape and unable to cultivate. It is also submitted that since there is no road access, the property cannot have the fair value of Rs.1.5 lakhs per Are, as already fixed by the concerned authority and on bringing the factual position to the notice of the competent authority/RDO, fair value was reduced to the actual extent of Rs.60,000/- per Are, as per Ext. P3 under Section 28A of the Kerala Stamp Act. When the petitioner and the 4th respondent approached the third respondent/the Sub Registrar to get the conveyance registered, it was refused to be done, referring to the higher fair value of Rs.1.5 lakhs, already fixed and further that, Ext.P3 is still to be published so as to give effect to the notification. Hence the writ petition.

2. The learned Govt. Pleader appearing on behalf of the respondents, based on the instructions received, submits that there was no question of reduction of the Fair Value. As a matter of fact, the property of the petitioner is a wet land, for which no fair value was fixed earlier. It was in the said circumstance, that the particular type of land, as belonging to the petitioner, was considered and its fair value was fixed by the competent authority as per Ext.P3. It is also pointed out that there is no dispute with regard to the nature of the land or fair value fixed by the competent authority/RDO as per Ext.P3. But the fact remains that it is still to be notified, so as to give effect to the same and to collect the stamp duty.

3. In the above circumstance, it is for the concerned respondent to cause Ext.P3 to be published in the official gazette. In so far as there is no dispute with regard to the fair value fixed as per Ext.P3, there will be a direction to the third respondent/Sub Registrar to register Ext.P1 conveyance, as and when the original of the same is presented, of course, subject to satisfaction of the relevant provisions of the Registration Act/Rules.

4. The learned Government Pleader however points out that the fair value has been subsequently enhanced by 50% by amendment of Section 28A (by inserting sub-section(1B) to Section 28A **(Notification dated 14.11.2014 G.O.(P) No.188/2014/TD**), by virtue of which, the fair value of the petitioner's property as on date is **Rs.90000/-** per Are. It is for the concerned party to satisfy the Stamp Duty reckoning the 'fair value' as **Rs.90000**/- per Are, to have registration of the conveyance as above. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the third respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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