

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 34784 of 2014 (W)

PETITIONER:

**T.V.MATHEW, AGED 64 YEARS
S/O.VARGHESE MATHEW, THEKKEL HOUSE, PAINGOTOOR P.O
KOTHAMANGALAM, ERNAKULAM DISTRICT**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.M.D.SASIKUMARAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G
SRI.DIPU JAMES**

RESPONDENTS:

- 1. STATE OF KERALA
REP BY ITS SECRETARY CO-OPERATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001**
- 2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
NEAR CENTRAL STADIUM,THIRUVANANTHAPURAM 695 001**
- 3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),O/O
JOINT REGISTRAR OF CO-OP. SOCIETIES (GENERAL),
ERNAKULAM - 682 030**
- 4. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES)GENERAL)
O/O ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES(GEN)
KOTHAMANGALAM 686 691**
- 5. THE SPECIAL SALE OFFICER/ASST. REGISTRAR(GENERAL),
KOTHAMANGALAM 686 691**
- 6. KOTHAMANGALAM SERVICE CO-OPERATIVE SOCIETY LTD.,
KOTHAMANGALAM REP BY ITS SECRETARY 686 691**
- 7. POULOSE
S/O.JOSEPH, EDAKATTU HOUSE
KOTHAMANGALAM VILLAGE AND KARA
KOTHAMANGALAM 686 691**

**R1 TO R4 BY GOVERNMENT PLEADER SRI. T.R. RAJESH
R6 BY ADV.SRI.M.SASINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 TRUE COPY OF THE SALE DEED NO 914/1/88 DATED 03-03-1988 OF
SRO KOTHAMANGALAM**

EXHIBIT P2 TRUE COPY OF PETITION DTD 11-07-1989

EXHIBIT P3 TRUE COPY OF ORDER DATED 13-01-2000

EXHIBIT P4 TRUE COPY OF PETITION DATED 28-3-2003

EXHIBIT P5 TRUE COPY OF ORDER DATED 28-07-2004

**EXHIBIT P6 TRUE COPY OF JUDGMENT DATED 31-01-2005 IN WPC NO 3341 OF
2005**

RESPONDENT(S)' EXHIBITS:-

**EXHIBIT R6(a) A TRUE COPY OF THE SALE CONFIRMATION ORDER AND
THE SALE CERTIFICATE**

**EXHIBIT R6(b) A TRUE COPY OF THE CERTIFICATE UNDER SECTION 39(1)
(a) OF THE KERALA STAMP ACT ISSUED BY THE SUB
REGISTRAR**

**EXHIBIT R6(c) A TRUE COPY OF THE BASIC TAX RECEIPT REMITTED BY
THE SOCIETY**

**EXHIBIT R6(d) A TRUE COPY OF THE PROCEEDINGS IN E.P. NO. 96 OF 2006
OF THE MUNSIFF'S COURT MUVATTUPUZHA**

**EXHIBIT R6(e) A TRUE COPY OF THE REPLY ISSUED TO THE PETITIONER
BY THE SOCIETY DATED 13.12.2012**

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 34784 OF 2014

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner claims to be an assignee of the property under the Sale Deed dated 03.03.1988 subject to a mortgage in favour of the sixth respondent society. It appears that 17 cents of land out of the total extent of 40 cents mortgaged to the society was sold in execution on 14.10.1998 for a sum of Rs. 32,475.25. The petitioner now seeks re-conveyance of the property expressing his willingness to pay the entire dues with interest at 20% upto date in addition to the costs incurred for sale and litigation.

2. The original loanee impleaded as the seventh respondent has not chosen to appear and resist the reliefs in the writ petition. A Division Bench of this Court in W.A. No. 182/2010 has held that it will not be in the best interest of the society to retain the purchased property

for long without being put to any profitable use. What is required is liquidity for which the asset should be sold at the earliest and the amount realised to be added to the working capital. The applicability of the dictum aforesaid to the facts of the present case is a matter to be considered by the appropriate authority.

3. It is open to the petitioner to move the third respondent Joint Registrar with a detailed petition expressing his willingness as above. The Joint Registrar shall put the petitioner as well as the sixth respondent society on notice and pass appropriate orders in accordance with law. The needful shall be done within a period of two months from the date on which the motion is made by the petitioner.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS