IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 35464 of 2014 (G)

PETITIONER :

DASAN P.V., AGED 54 YEARS,
S/O. PARANTHAN VELAYUDHAN, HOUSE NO.1, WARD NO. 12
KUNDALIYOOR P.O., THRISSUR DISTRICT - 680 616.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS :
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1. THE STATE OF KERALA
   REP. BY THE SECRETARY TO THE GOVERNMENT,
   REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM - 695 001.

2. THE DISTRICT COLLECTOR
   COLLECTORATE, AYYANTHOLE, THRISSUR - 680 001.

3. THE TALUK TAHSILDAR,
   CHAVAKKAD TALUK, THRISSUR DISTRICT - 680 001.

4. THE VILLAGE OFFICER
   ENGANDIYOOR VILLAGE OFFICE,
   THRISSUR DISTRICT - 680 001.

BY SENIOR GOVERNMENT PLEADER SRI. K.C. VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 35464 of 2014 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - **A TRUE COPY OF THE SALE DEED BEARING NO. 1182/2013 DT. 22.2.13 OF THE VADANAPILLY S R O.**

P2 - **A TRUE COPY OF THE CERTIFICATE OF ENCUMBRANCE ON PROPERTY ISSUED BY THE VADANAPILLY S R O DT. 21.6.13.**

P3 - **A TRUE COPY OF THE JUDGMENT IN WPC NO. 13590/2013 DT. 13.6.13 OF THIS HON'BLE COURT.**

P4 - **A TRUE COPY OF THE ORDER PASSED IN CRL. M.P NO. 48/2012 DT. 12.1.12 ON THE FILE OF THE C J M, THRISSUR.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON J.
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W.P.(C) No. 35464 of 2014
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Dated, this the 9[h] day of January, 2015

JUDGMENT

The grievance of the petitioner is in respect of the callous inaction on the part of the respondents in accepting tax from the petitioner in respect of the property, which was purchased pursuant to the steps taken by the concerned Bank SARFAESI Act against the defaulter, who was the erstwhile owner.

2. The sequence of events reveals that the property came to be sold by way of public auction, after taking possession of the same with the intervention of the concerned Chief Judicial Magistrate's Court, Trichur as per Ext. P5 order passed in a petition filed under Section 14 of the Act. But registration of the property was refused to be effected. This made the Bank to approach this Court by filing W.P.(C) No. 13590 of 2013 leading to Ext. P3 judgment, whereby the first respondent therein (Registering Authority) was directed to register the document within two weeks. Based on the said verdict, the registration has been effected. Now it is the turn of the Revenue authority to place further hurdle by refusing to accept tax payable in

respect of the property concerned. This made the petitioner to approach this Court with the following prayers :

> i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 4th respondent to effect mutation on the basis of Ext. P1 and to accept the land tax from the petitioner within a stipulated time limits in the interest of justice.
>
> ii) To pass any such or further orders as the petitioner may seek and this Hon'ble Court deem fit to grant.

3. Heard the learned Government Pleader as well, who points out that the observation made by this Court in Ext. P3 judgment, particularly in paragraph 2 as to the attachment ordered by the concerned Civil Court could not have been ignored by the Revenue Authorities and as such the petitioner cannot be heard to say there was wilful latches on the part of the Revenue Authorities in accepting tax. But the attachment, if any after creation of mortgage cannot defeat the rights and interests of the Bank. Even if there is an attachment, it cannot be a bar for effecting mutation, as made clear by this Court in the decision reported in **2010 (3) KLT 215 [Joseph Kurien Vs. State of Kerala].** That apart, since the property was sold in accordance with the relevant provisions of the SARFAESI Act, all rights and interest stand

transferred to the transferee, to the execution of all others, without any encumbrance. The rights of the petitioner over the property concerned stand already been crystallized. In any view of the matter, there was a positive direction given vide Ext. P3 judgment to cause registration of the property in favour of the petitioner and as a natural consequence, tax also is to be accepted.

4. In the above circumstances, the 4th respondent is directed to accept tax from the petitioner in respect of the property covered by Ext. P1 under the Kerala Land Tax Act effecting transfer of Registry under the Transfer of Registry Rules, as and when the same is tendered. This however will not create a right of its own, if there is any other mitigating circumstance in terms of the relevant provisions of law.

The Writ Petition is disposed of.

Sd/-

P. R. RAMACHANDRA MENON,
(JUDGE)

kmd