IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 25TH DAY OF JULY 2024 / 3RD SRAVANA, 1946

WP(C) NO. 22614 OF 2022

PETITIONER:

NICHOLAS VARGHESE,
S/O.VARKEY VARGHESE, OOMELIL HOUSE,
KOKKAPPILLY P.O., ERNAKULAM-682 305.

BY ADVS.
N.N.SUGUNAPALAN (SR.)
S.SUJIN
JOJI GEORGE JACOB

RESPONDENTS:

1 **DISTRICT COLLECTOR,**
CIVIL STATION, PAINAVU P.O., IDUKKI - 685 603.

2 **TAHASILDAR, UDUMPANCHOLA,**
IDUKKI DISTRICT 685 554.

3 **VILLAGE OFFICER,**
CHINNAKANAL.P.O., IDUKKI DISTRICT - 685 618.

4 **REVENUE DIVISIONAL OFFICER**
DEVIKULAM, IDUKKI DISTRICT - 685613.

BY ADVS.
ADVOCATE GENERAL OFFICE KERALA
SHRI.K.P.JAYACHANDRAN, ADDL. ADVOCATE GENERAL
SHRI.JAFFERKHAN -SR.G.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.07.2024, ALONG WITH WP(C).19509/2024, THE COURT ON 25.07.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 25TH DAY OF JULY 2024 / 3RD SRAVANA, 1946

WP(C) NO. 19509 OF 2024

PETITIONER:

BASHEER P.A
AGED 50 YEARS
S/O ALIYAR, PAZHAMPILLY THAZHAM HOUSE,
THOKKUPARA.P.O., IDUKKI DIST., PIN – 685565.

BY ADVS.
BABY KURIAKOSE
M.V.ASHIM

RESPONDENTS:

1 **THE DISTRICT COLLECTOR**
CIVIL STATION, PAINAVU P.O.,
IDUKKI, PIN – 685603.

2 **TAHASILDAR**
UDUMPANCHOLA TALUK,
UDUMPANCHOLA IDUKKI DISTRICT, PIN – 685554.

3 **VILLAGE OFFICER,**
VILLAGE OFFICE, CHINNAKANAL P.O IDUKKI DISTRICT,
PIN – 685618.

4 **REVENUE DIVISIONAL OFFICER,**
DEVIKULAM, IDUKKI DISTRICT, PIN – 685613.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.07.2024, ALONG WITH WP(C).22614/2022, THE COURT ON 25.07.2024 DELIVERED THE FOLLOWING:

A.MUHAMED MUSTAQUE, Acg.C.J. & S.MANU, J.

W.P.(C.)Nos.22614 of 2022 & 19509 of 2024

Dated this the 25th day of July, 2024

JUDGMENT

S.MANU, J.

Proceedings of the Tahsildar, Udumbanchola dated 29.12.2017 by which thandaper accounts of the petitioners were cancelled is under challenge in these writ petitions. Since the factual background as well as the contentions are identical, these writ petitions are being disposed by this common judgment.

2. The case projected by the petitioners is as follows:-

One K.K.Ramakrishna Pillai, S/o.Karunakara Pillai submitted application for assignment of about 4 acres of land in Re.Sy.No.20/01 of Chinnakkanal Village on 29.3.1968. After completing the enquiries Village Officer reported in favour of assignment of 3 acres 17 cents of land in Re.Sy.No.20/01 to the applicant. As directed by the

authorities, Ramakrishna Pillai remitted the prescribed fees/amounts for issuance of purchase certificate. The purchase certificate was issued as per orders in LA 23/68. The patta was issued later, on 24.5.1983. The property covered by the patta was later purchased by one Mr.Sajith.T.Antony by registered Sale Deed No.1361/2005 of SRO, Rajkumari. The petitioner in W.P.(C)No.22614/2022 purchased 69.2 Ares of land and another extent of 2.37 Ares from Sajith Antony by registered sale deeds 2202/2007 and 2206/2007 of SRO, Rajakumari. The petitioner in W.P.(C)No.19509/2024 purchased an extent of 1.41 acres of land from Sajith T.Antony by sale deed No.2201/2007 of SRO, Rajakumari.

3. Petitioners in both cases claimed that they had exercised due diligence in verifying all relevant aspects before executing the sale deeds. They had obtained possession certificate, certificate of genuineness and NOC in respect of patta, encumbrance certificate, etc. in addition to copies of sale deeds and tax receipts to ensure the rights of

the vendor. They claimed that after execution of the sale deed mutation was effected in their favour. Mutation in favour of the petitioner in W.P.(C)No.22614/2022 was made under TP 4305. Mutation in favour of the petitioner in W.P.(C)No.19509/2024 was done under TP 4304. However, the 1st respondent District Collector later ordered enquiry into the irregularities in respect of issuance of pattas in different Villages including Chinnakkanal. The revenue authorities refused to receive basic tax. The petitioner in W.P.(C)No.22614/2022 approached this Court in W.P.(C)No.12059/2009. The case was disposed of by judgment dated 8.4.2009. Learned Single Judge of this Court disposed the writ petition directing the Village Officer to consider the application made by the petitioner for possession certificate and to pass orders thereon. In the meanwhile one Ramakrishna Pillai, S/o.Kochukunju Pillai raised a claim that he is the original assignee and instituted civil suit against the petitioner in W.P.(C)No.22614/2022. Suit was later transferred to Munnar Special Tribunal which

dismissed it on merits. The petitioner in W.P.(C)No.22614/2022 again approached this Court in W.P.(C)No.23882/2015. The said writ petition was disposed by a learned Single Judge of this Court on 3.12.2015 directing to conclude proceedings relating to genuineness of the patta. A review petition was filed as R.P.No.829/2016 to review the judgment dated 3.12.2015. An Advocate Commissioner was appointed as per order dated 16.6.2017 in the review petition. The Commissioner submitted a report and finally by order dated 7.11.2017 the learned Single Judge directed to conclude the enquiry proceedings related to genuineness of patta within a period of two months. The Tahsildar thereafter conducted hearings on various dates and finally issued proceedings dated 29.12.2017. The Tahsildar, as stated at the outset, cancelled the thandaper accounts of the petitioners.

4. Petitioners are contending that the impugned decision is taken on extraneous considerations and ignoring the relevant materials. It is alleged that the Tahsildar has

acted on the basis of the dictates of the Sub Collector. The Tahsildar has not adverted to the contentions of the petitioners. Relevant documents such as possession certificate issued in favour of the predecessor in interest, genuineness certificate issued with respect to the patta in LA 23/68, NOC issued in 2007, etc. were lightly brushed aside. The petitioners submit that the Tahsildar has acted in a highly prejudiced manner and concluded that the patta was not genuine. They also submit that the claim raised by Ramakrishna Pillai, S/o.Kochukunju Pillai was totally untenable and the Tahsildar went wrong in acting on the basis of his complaint. It is also contended that the Tahsildar failed to comply with the direction issued by this Court in a proper manner.

5. We have heard the learned counsel appearing for the petitioners in both cases as also the learned Government Pleader. We have carefully perused the pleadings and documents produced in both cases.

6. A perusal of the impugned order reveals the following crucial facts. Details regarding LA 23/1968 are not recorded in any of the registers related to assignments in Chinnakkanal Village. It is noted that the proceedings for issuance of patta was initiated by the office of Special Tahsildar (Land Assignment), Nedumkandom in 1968. However, the proceedings were concluded with issuance of patta from LA office, Adimaly in 1983. Strangely, the thandaper account was created in 2005 only, after a long gap of 22 years. Thereafter, within a short time the property seems to have been sold. Signature of the assignee varies in A.O and the application for assignment. Notice was issued to the original assignee Mr.Ramakrishna Pillai. He appeared before the Tahsildar and stated that no patta was issued to him, the signature in the patta is not his signature and that he had not sold the property to anyone. Notice was issued to Sajith T.Antony who sold the properties to the petitioners. According to the Tahsildar, Sajith T.Antony appeared before him and stated that he had

purchased the entire land covered by the patta in 2005 and remitted basic tax after effecting mutation. However, he also stated that he has doubt regarding the identity of the person who executed the sale deed in his favour. He refused to sign the statement given to the Tahsildar. The Tahsildar noted that re-survey was conducted in Chinnakkanal during 1973. Though the assignment was made in 1968 and required fee was also paid, the property comprised in Re.Sy.No.27 in Block No.VI has been noted as Government puramboke in land register. If the property was in possession of the assignee during 1968 the said fact would have been noted in the land register. Examination of Register No.2 revealed that LA 23/68 was not issued provisionally or finally. Though it is recorded in the patta that the same was issued on 24.5.1983 from LA office, Adimaly, there are no entries regarding the same in the 'B' register.

7. On examination of patta files the Tahsildar noted that the person who appear during the course of enquiry in

response to the notice issued to the original assignee was only 3 year old during 1954. The claim in the application for assignment is regarding possession of the land from 1954. The property he claimed is actually at another locality. The proceedings with respect to LA 23/68 were genuinely initiated, however, the same appears to have been not properly completed and the original applicant seems to have not received patta. The fact that the relevant columns in Register No.2 remains unfilled is an indication of non-receipt of patta by the original applicant. Though the required fee was paid in 1968, the patta is claimed to have been received from LA office, Adimaly in 1983 after a gap of 15 years. Thandaper account is seen created in the name of the original assignee much later in 2005. The property was sold immediately thereafter. Report of the Taluk Surveyor revealed that the property actually comprises within survey 541 pt, 543 pt and 544 pt. However, the property mentioned in patta file LA 23/68 is comprised in Sy.No.20/1. Survey 541, 543, 544 and 20/1 are separate survey sub

divisions with respect to which different BTR accounts are there.

8. Taking into account the above mentioned facts and circumstances, the Tahsildar concluded that the original applicant did not receive the patta after getting the proceedings completed and later with the connivance of the officials someone misused the said patta file and grabbed the Government land comprised in Survey 541 pt, 543 pt and 544 pt. Based on this finding the Tahsildar cancelled thandaper accounts of the petitioners.

9. We do not find any merit in the contentions of the petitioners in the light of the detailed account of manipulations narrated by the Tahsildar in the impugned proceedings. A reading of the impugned proceedings clearly shows that the Tahsildar has examined all relevant records. He has entered into the findings and conclusions after proper application of mind. He has considered only relevant aspects. There is no force in the contention that he has acted in accordance with the dictates of the higher

authorities. He has mentioned about the directions issued by the higher authorities. However, he has independently recorded his findings and conclusions and reasons thereof. Mere reference to the directions issued by the higher authorities need not be considered as a vitiating factor under such circumstance. While exercising the jurisdiction under Article 226 of the Constitution, the court is concerned mainly with the decision making process. We do not find any faults in the proceedings of the Tahsildar. Ample opportunities were provided to the petitioners. Conclusions arrived at cannot be depicted as without any basis or unreasonable. No violation of the principles of natural justice is involved. Under such circumstances, there is no scope for interference by this Court. Hence, we reject the writ petitions. However, if the petitioners have any grievances against the person from whom they purchased the properties, they will be at liberty to proceed for the redressal of the same in accordance with law.

10. Taking into account the nature of the manipulations pointed out in the impugned order, we are of the view that the matter requires further probe and appropriate follow up action. The involvement of officials in issuing the patta and all other attendant circumstances are to be enquired further. In this case more than 3 acres of valuable land vested with the Government was grabbed. Therefore, we direct the Special Investigation Team constituted in compliance with the direction issued by this Court in W.P.(C)No.1801/2010 to conduct detailed enquiry in this case also. The learned Government Pleader shall supply copies of all pleadings in these writ petitions to the Chairman of the Special Investigation Team along with a copy of this judgment. The revenue authorities shall provide the relevant records for verification and appropriate action by the Special Investigation Team. The Special Investigation Team shall initiate appropriate action in this matter after perusal of all relevant records within a period of two months from the date of receipt of a copy of this

judgment. Appropriate action including proceedings under the criminal laws shall be initiated against all who are involved in the fraudulent transactions including officials and retired officials.

Writ petitions are dismissed.

Sd/-

A.MUHAMED MUSTAQUE,
ACTING CHIEF JUSTICE

Sd/-

S.MANU,
JUDGE

skj

APPENDIX OF WP(C) 22614/2022

PETITIONER'S EXHIBITS

Exhibit P1	**TRUE COPY OF THE PATTA APPLICATION SUBMITTED BY SRI. K.K RAMAKRISHNA PILLAI**
Exhibit P1 (a)	**TRUE COPY OF THE REPORT OF VILLAGE OFFICER DULY VERIFIED BY REVENUE INSPECTOR.**
Exhibit P1 (b)	**TRUE COPY OF THE STATEMENT TAKEN BY REVENUE INSPECTOR, UDUMBANCHOLA, FROM THE ORIGINAL APPLICANT SRI. K.K. RAMAKRISHNA PILLAI, S/O KARUNAKARA PILLAI.**
Exhibit P1 (c)	**TRUE COPY OF THE TREASURY CHALAN RECEIPT TOWARDS PAYMENT OF LAND VALUE OF RS.62.22**
Exhibit P1 (d)	**TRUE COPY OF CHALAN RECEIPT FOR PAYMENT OF BASIC TAX BY SHRI.K.K.RAMAKRISHNA PILLAI.**
Exhibit P2	**TRUE COPY OF THE FILE COPY OF PATTA DATED 24/05/1983 MAINTAINED IN THE OFFICE OF 2ND RESPONDENT.**
Exhibit P3	**TRUE COPY OF THE SALE DEED DATED 25/04/2005, TRANSFERRING LAND BY PATTADAR K.K.RAMAKRISHNA PILLAI TO SAJITH ANTONY.**
Exhibit P4	**TRUE COPY OF THE SALE DEED 2202/2007, TRANSFERRING LAND BY SAJITH ANTONY TO NICHOLAS VARGHESE.**
Exhibit P4 (a)	**TRUE COPY OF THE SALE DEED 2206/2007, TRANSFERRING LAND BY SAJITH ANTONY TO NICHOLAS VARGHESE.**
Exhibit P5	**TRUE COPY OF POSSESSION CERTIFICATE DATED 26-05-2005 ORIGINALLY ISSUED BY VILLAGE OFFICER, CHINAKKANAL.**
Exhibit P5 (a)	**TRUE COPY OF THE CERTIFICATE OF GENUINENESS.**

Exhibit P5 (b)	**TRUE COPY OF NOC ISSUED BY THE 2ND RESPONDENT.**
Exhibit P6	**TRUE COPY OF THE INFORMATION DATED 01/04/2009 GIVEN FROM THE OFFICE OF TAHASILDAR, UDUMBANCHOLA EVIDENCING MUTATION OF THE LAND IN FAVOUR OF NICHOLAS VARGHESE AND OPENING OF THANDAPPPER ACCOUNT NUMBER TP4305.**
Exhibit P7	**TRUE COPY OF THE JUDGMENT DATED 8-04-2009 IN WP(C)NO. 12099/09.**
Exhibit P8	**ORDER OF THE MUNNAR SPECIAL TRIBUNAL DATED 30-07-2014 IN MTOP 15/2012 DISMISSING THE CLAIM OF K.K RAMAKRISHNA PILLAI, S/O KOCHUKUNJU PILLAI AS THE ORIGINAL PATTA APPLICANT AND OWNER IN POSSESSION OF THE PATTA LAND COMPRISED IN SY 20/1 OF CHINAKKANAL VILLAGE, COVERED UNDER LA 23/68.**
Exhibit P9	**TRUE COPY OF THE AFFIDAVIT SWORN TO BY K.K RAMAKRISHNA PILLAI, S/O KOCHUKUNJU PILLAI (WHO CLAIMED AS THE ORIGINAL PATTA APPLICANT) WHICH WOULD SHOW THAT THE PROPERTY CLAIMED BY HIM WAS DIFFERENT FROM THAT OF THE LAND ASSIGNED TO THE ORIGINAL PATTADAR IN EXHIBIT P2.**
Exhibit P10	**TRUE COPY OF THE JUDGEMENT DATED 3/12/2015 IN WP (C) NO. 23882/2015.**
Exhibit P11	**TRUE COPY OF THE ORDER DATED 30-11-2016 IN RP NO.829/2016 CALLING FORWARD ALL FILES PERTAINING TO THE ENQUIRY OF PATTA IN RESPECT OF THE PROPERTY COMPRISED IN SY NO.20/01 OF CHINAKKANAL VILLAGE.**
Exhibit P11 A	**TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 14-12-2016 EVIDENCING THE ACKNOWLEDGMENT OF ALL FILES PERTAINING TO THE ENQUIRY BY THE OFFICE OF THE ADVOCATE GENERAL.**
Exhibit P12	**TRUE COPY OF THE LETTER DATED 31-01-2017 BY 2ND RESPONDENT TO 4TH RESPONDENT EXPLAINING HIS IMPEDIMENT TO FILE POLICE**

	COMPLAINT AGAINST THE PETITIONER AS HE IS NOT IN POSSESSION OF THE FILES.
Exhibit P13	**TRUE COPY OF THE ORDER DATED 16-06-2017 IN IA NO.281/2017 IN RP NO.829/2016 APPOINTING ADVOCATE COMMISSIONER.**
Exhibit P13(a)	**TRUE COPY OF THE REPORT OF THE ADVOCATE COMMISSIONER FILED BEFORE THIS COURT ON 7-07-2017.**
Exhibit P14	**TRUE COPY OF THE ORDER OF THIS COURT DATED 7/11/2017 IN RP NO.829/2016.**
Exhibit P15	**TRUE COPY OF THE NOTICE DATED 20-12-2017 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.**
Exhibit P15 (a)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 1-03-2008 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P15 (b)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 29-05-2009 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P15 (c)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 7-09-2009 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P15 (d)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 2-01-2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P15 (e)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 28-01-2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P15 (f)	**TRUE COPY OF THE NOTICE FOR HEARING DATED 21-04-2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
Exhibit P16	**TRUE COPY OF THE WRITTEN STATEMENT DATED 26/12/2017, FILED BY THIS PETITIONER BEFORE THE 2ND RESPONDENT ON THE TIME OF HEARING.**
Exhibit P17	**TRUE COPY OF THE PROCEEDINGS NO. K4-17932/17 DATED 29/12/2017, CANCELLING THE THANDAPPPER ACCOUNT NUMBER TP4305 OF**

	THE PETITIONER.
Exhibit P18	**TRUE COPY OF THE LETTER OF 1ST RESPONDENT TO THE 2ND RESPONDENT, MENTIONED IN THE EXT P17 PROCEEDINGS, OBTAINED BY THIS PETITIONER UNDER RTI.**
Exhibit P19	**TRUE COPY OF THE ORDER DATED 24-11-2021, CLOSING THE REVIEW PETITION RP NO.829/2016.**
Exhibit P20	**TRUE COPY OF THE JUDGMENT DATED 10-05-2022 IN WP(C) NO.7020/2022, DISMISSING THE WRIT PETITION AS WITHDRAWN WITH LIBERTY TO CHALLENGE EXHIBIT P17 PROCEEDINGS AFRESH.**

RESPONDENT'S EXHIBITS

EXHIBIT R2(a)	**TRUE COPY OF THE RELEVANT PAGES OF THE NO. II REGISTER.**
EXHIBIT R2(b)	**TRUE COPY OF THE THANDAPER NUMBER 3736.**
EXHIBIT R2(c)	**TRUE COPY OF THE APPLICATION SUBMITTED BY SRI.RAMAKRISHNA PILLAI DATED 14.10.2009.**
EXHIBIT R2(d)	**TRUE COPY OF THE RELEVANT PAGES OF THE RE-SURVEY FAIR LAND REGISTER.**

APPENDIX OF WP(C) 19509/2024

PETITIONER'S EXHIBITS

Exhibit P1	**TRUE COPY OF THE REPORT OF VILLAGE OFFICER DULY VERIFIED BY REVENUE INSPECTOR DATED 7.05.1968**
Exhibit P1(a)	**TRUE COPY OF THE STATEMENT TAKEN BY REVENUE INSPECTOR, UDUMBANCHOLA, FROM THE APPLICANT SRI.K.K.RAMAKRISHNA PILLAI, S/O KARUNAKARA PILLAI, OBTAINED UNDER RIGHT TO INFORMATION ACT, DATED 7.05.1968**
Exhibit P2	**TRUE COPY OF THE SAID PATTA DATED 24/05/1983 MAINTAINED IN THE OFFICE OF 2ND RESPONDENT AND ISSUED UNDER RIGHT TO INFORMATION ACT DATED 24.05.1983.**
Exhibit P3	**TRUE COPY OF THE CERTIFICATE OF GENUINENESS DATED 24.02.2007.**
Exhibit P3(a)	**TRUE COPY OF THE NOC ISSUED BY THE 2ND RESPONDENT DATED 13.09.2007**
Exhibit P4	**TRUE COPY OF THE SALE DEED NO.2201/2007 OF THE SRO RAJAKUMARI DATED 29.11.2007**
Exhibit P5	**TRUE COPY OF THE LAND TAX DATED 26.12.2007 RECEIPT ISSUED TO PETITIONER**
Exhibit P6	**A TRUE COPY OF THE ORDER MTOP 15/2012 OF THE MUNNAR TRIBUNAL DATED 30.07.2014**
Exhibit P7	**A TRUE COPY OF THE ORDER IN RP NO 829/2016 IN WPC 23882/2015 OF THE HIGH COURT OF KERALA DATED 7.11.2017**
Exhibit P8	**A TRUE COPY OF THE NOTICE DATED 20.12.2017 BEFORE THE 2ND RESPONDENT**
Exhibit P9	**TRUE COPY OF THE ORDER DATED 29.12.2017 ISSUED TO SRI.NICHOLAS VARGHESE**