IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 27TH DAY OF MARCH 2024 / 7TH CHAITHRA, 1946

WP(C) NO. 26937 OF 2018

PETITIONERS:

1 *ANILKUMAR.M.K*
AGED 44 YEARS, S/O.PADMANABHAN NAMBIAR, MADATHIKANDI, PATHIYARAKKARA P.O., VADAKARA, KOZHIKKODE.

2 *STATE OF KERALA REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.*

BY ADVS.
K.LAKSHMINARAYANAN
SATHYASHREE PRIYA EASWARAN(k/00579C/1990)

RESPONDENTS:

1 *STATE OF KERALA*
REPRESENTED BY ITS SECRETARY,DEPARTMENT OF REVENUE, SECRETARIAT,THIRUVANANTHAPURAM, PIN-695001.

2 *DISTRICT COLLECTOR*
COLLECTORATE, WAYANAD, PIN-673121.

3 *SUB COLLECTOR*
COLLECTORATE, WAYANAD, PIN-673121

4 *TAHSILDAR*
VAITHIRI TALUK, VAITHIRI P.O., WAYANAD, PIN-673121.

5 *VILLAGE OFFICER*
KOTTAPPADY VILLAGE, KOTTAPPADI, WAYANAD DISTRICT, PIN-673577.

6 *MS.HARRISON MALAYALAM PLANTATIONS*
MEPPADI, WAYANAD, PIN-673577.

BY ADVS.
SRI. BIMAL K NATH, SR. GOVERNMENT PLEADER
M. GOPIKRISHNAN NAMBIAR
SRI.S.B.PREMACHANDRA PRABHU, SPL.GOVERNMENT PLEADER FOR WP(C).NO.10962/2015 AND CONNECTED CASES

K. JOHN MATHAI
JOSON MANAVALAN
KURYAN THOMAS
PAULOSE C. ABRAHAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The above writ petition is filed by the petitioner who claims to be a person who has obtained certain extent of property under Ext.P5 sale deed executed under a Court auction by the Party receiver. His prayer is to direct the Tahsildar to conduct an enquiry regarding effecting of mutation of the property covered by Ext.P5 under the provisions of the Transfer of Registry Rules. A further prayer in the form of writ of mandamus for a direction to respondent Nos.3 and 4 to conduct an enquiry in terms of Rule 11 read with Note (ii) of Rule 10 of the Transfer of Registry Rules is also sought for.

2. The learned Standing Counsel appearing for the sixth respondent, Adv.Pooja Menon, brings to my notice that on the same facts the petitioner had approached this Court in Writ Petition No.4529 of 2014 which resulted in Ext.P12 judgment in which this Court declined in the prayer of the petitioner herein for a

direction to the Tahsildar to effect mutation, especially when the possession of the property itself was disputed and that the order impugned therein refers to the possession of Harrison Malayalam in respect of the property. When this was pointed out to the counsel for the petitioner, Sri.Lakshmi Narayanan asserts that the property covered in the writ petition resulting in Ext.P12 judgment and the present writ petition is entirely different. He also further submits that O.S.No.31 of 2018 has been filed before the Subordinate Judges Court, Sulthan Batheri against the sixth respondent for handing over vacant possession of the property.

3. I am afraid that I am not in a position to accept the contention of the petitioner. The counsel for the sixth respondent is justified in raising an objection in this Court issuing a writ of mandamus for conducting an enquiry in terms of the Transfer of Registry Rules for effecting mutation of the property. Here the possession

itself is under dispute. This Court has already directed in Ext.P12 judgment that the petitioner will have to establish his legal rights and title over the property before seeking for a direction against the Tahsildar to effect mutation of the property concerned. The objection is further justified on the fact that O.S.No.31 of 2018 has been filed by the petitioner seeking for a decree against the Harrison Malayalam for handing over the vacant possession of the land. This clearly establishes that the parties are at serious dispute on the question of possession.

4. In the light of aforesaid facts, this Court will not be justified in issuing the direction as sought for in the writ petition. Accordingly, the writ petition is dismissed. However, the dismissal of the writ petition will not be in prejudice to the right of the petitioner to establish his title in the appropriate civil proceedings and thereafter claim such other right as under the provisions

of the Transfer of Registry Rules.

At this point of time, the learned Senior Government Pleader points out that there are other disputes between the Government and Harrison Malayalam. However, I am not called upon to decide those issues in the present writ petition, wherein the dispute is between the petitioner qua the sixth respondent and this writ petition does not deal with any other dispute between the Government and the Harrison Malayalam. It is so clarified.

Sd/-

EASWARAN S.
JUDGE

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APPENDIX OF WP(C) 26937/2018

PETITIONER EXHIBITS

EXHIBIT P1-	TRUE COPY OF ORDER DATED 12/11/1982 OF THE SUB COURT, VADAKARA
EXHIBIT P2-	TRUE COPY OF THE RESURVEY AND RESETTLEMENT REGISTER OF KOTTAPPADY VILLAGE.
EXHIBIT P3-	TRUE COPY OF LAWYER NOTICE DATED 23/9/2003 SENT T 6TH RESPONDENT
EXHIBIT P4-	TRUE COPY OF SCHEDULE OF PROPERTIES SOUGHT TO BE SOLD
EXHIBIT P5-	TRUE COPY OF SALE DEED NO.2969/2006 OF KALPETA REGISTRY DATED 17/10/2006.
EXHIBIT P6-	TRUE COPY OF THE APPLICATION DATED 20/11/2006 BEFORE THE TAHSILDAR VAITHIRI TALUK
EXHIBIT P7-	TRUE COPY OF LETTER DATED 13/8/2007 TO THE DISTRICT SURVEY SUPERINTENDENT BY THE RECEIVER
EXHIBIT P8-	TRUE COPY OF BASIC TAX REGISTER OF KOTTAPPADY VILLAGE
EXHIBIT P9-	TRUE COPY OF THE RELEVANT PORTION OF SUB DIVISION REGISTER OF KOTTAPPADY VILLAGE
EXHIBIT P10-	TRUE COPY OF RELEVANT PAGES OF DECISION DATED 19/6/2008 OF THE SURVEY ZONAL JOINT REGISTRAR
EXHIBIT P11-	TRUE COPY OF THE JUDGMENT IN WP(C) NO.25481/2008 DATED 9/9/2013.

EXHIBIT P12-	*TRUE COPY OF THE JUDGMENT IN WP(C) NO.4529/2014 DATED 7/1/2016*
EXHIBIT P13-	*TRUE COPY OF THE REPRESENTATION DATED 10/9/2017, FILED BY THE PETITIONER BEFORE THE ADDITIONAL CHIEF SECRETARY REVENUE*
EXHIBIT P14-	*TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 21/11/2016 TO THE TAHSILDAR*
EXHIBIT P15-	*TRUE COPY OF THE REPORT OF THE TAHSILDAR DATED 27/12/2016 TO DISTRICT COLLECTOR*
EXHIBIT P16-	*TRUE COPY OF THE LETTER AGED 13/6/2017 OF DISTRICT COLLECTOR TO THE PETITIONER*
EXHIBIT P17-	*TRUE COPY OF LETTER DATED 14/6/2017 OF THE ADDITIONAL CHIEF SECRETARY*
EXHIBIT P18-	*TRUE COPY OF LETTER DATED 29/8/2017 OF THE UNDER SECRETARY TO REVENUE DEPARTMENT TO THE PETITIONER*
EXHIBIT P19	*TRUE COPY OF THE EXTRACT OF THE REVENUE REGISTER 1995-1996 OF KOTTAPPADI VILLAGE ISSUED UNDER THE RIGHT TO INFORMATION ACT.*
EXHIBIT P20	*TRUE COPY OF THE EXTRACT OF THE REVENUE REGISTER ISSUED BY THE VILLAGE OFFICER, KOTTAPPADI VILLAGE UNDER RIGHT TO INFORMATION ACT.*
EXHIBIT P21	*A TRUE COPY OF THE LETTER DATED 2.8.2008 ISSUED BY THE DISTRICT SURVEYOR, OFFICE OF THE DISTRICT SURVEY SUPERINTENDENT, KALPETTA ADDRESSED TO THE DISTRICT SURVEY*

	SUPERINTENDENT,W AYANAD.
EXHIBIT P22	A COPY OF FORM A OF TRANSFER OF REGISTRY RULES.
EXHIBIT P23	A COPY OF THE NOTICE DATED 10.3.1993 ISSUED TO KHADEEJA BEEVI, WIFE OF IBRAHIM SAHIB.
EXHIBIT P23-A	A COPY OF THE NOTICE DATED 14.7.1997 ISSUED BY THE HEAD MINISTERIAL OFFICER, MANANTHAVADI.
EXHIBIT P24	A TRUE COPY OF THE CERTIFICATE DATED 19.3.1987 ISSUED BY THE VILLAGE OFFICER, KOTTAPADY IN THE ASSIGNEMNT APPLICATION OF SHRI. MUHAMMED.
EXHIBIT P24-A	COPY OF CERTIFICATES ISSUED BY THE VILLAGE OFIFCER DATED 19.3.1987 IN THE ASSIGNEMTN APPLICATION OF SHRI KUNJUMOHAMMED.
EXHIBIT P24-B	COPY OF CERTIFICATES ISSUED BY THE VILLAGE OFIFCER DATED 6.2.1988 IN THE ASSIGNMENT APPLICATION OF SHRI CHIRACKAL AARU.