

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C) .No. 4667 of 2015 (G)

PETITIONER:

SMT.JENNETHUNNISA, AGED 48 YEARS
W/O.ABDUL VAHAB, 16/652 NADANKEEZHAYA, THONDIYIL
PUNNAPPALA POST, WANDOOOR, MALAPPURAM DISTRICT
PIN - 679 328.

BY ADV. SMT.S.A.SHERLY

RESPONDENTS:

1. THE PRINCIPAL SECRETARY TO GOVERNMENT REVENUE (L-DEPARTMENT)
THIRUVANANTHAPURAM. PIN - 695001
2. TAHSILDAR, TALUK OFFICE
NILAMBOOR. PIN - 679329.
3. THE VILLAGE OFFICER, VILLAGE OFFICE
VANDOOOR-679327.
4. ADDITIONAL TAHASILDAR, TALUK OFFICE
NILAMBOOR PIN - 679 329.
5. THE DISTRICT COLLECTOR, COLLECTORATE
PERUNTHALMANNA-680139

R BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 4667 of 2015 (G)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1- THE TRUE COPY OF THE COMMON JUDGMENT, WPC NO. 33758/10 AND WPC NO.35968/10.

P2- THE TRUE COPY OF THE JUDGMENT IN WPC NO. 31870/13

P3- THE TRUE COPY OF HTE 'PATTAYAM'.

P4- THE TRUE COPY OF THE TAX RECEIPT DATED 11.6.14.

P5- THE TRUE COPY OF THE NOTIFICATION DATED 16.9.14.

P6- THE TRUE COPY OF THE FILED SKETCH OF THE PROPERTY ISSUED BY THE SURVEY SUPERINTENDENT.

P7- THE TRUE COPY OF THE SETTLEMENT DEED DATED 14.11.14.

P8- THE TRUE COPY OF THE APPLICATION DATED 20.12.14 TO THE TAHSILDAR.

P9- THE TRUE COPY OF THE PROCEEDINGS REJECTED BY THE TAHSILDAR DATED 8.1.15.

RESPONDENT(S) ' EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

SCL.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4667 of 2015

Dated this the 27th day of February, 2015.

JUDGMENT

The petitioner is the present owner of the property covered by Ext.P3 Patta issued by the competent authority under the relevant provisions of the law. Earlier, it was the husband of the petitioner who owned the property, who had approached this Court, by filing W.P.(C) No.33758 of 2010, which was disposed of as per Ext.P1 judgment dated 22.11.2012, so as to have the application for assignment to be considered and finalized, which led to the issuance of Ext.P3 patta. Thereafter, the husband of the petitioner approached this Court again by filing W.P.(C) No.31870 of 2013, which was disposed of as per Ext.P2 judgment dated 25.7.2014, directing the concerned respondent to carry out mutation. The said judgment was given effect to and necessary entries were effected in the revenue records, in terms of the Transfer of

Registry Rules and the husband of the petitioner was enjoying the same, also satisfying the tax as per the Kerala Land Tax Act, as borne by Ext.P4 tax receipt. Because of serious ailments of the petitioner's husband, who is a cardiac patient, he thought it fit and proper to convey the property to the petitioner and the same was effected as per Ext.7 settlement deed dated 14.11.2014. It was thereafter, that the petitioner approached the respondents seeking to effect, mutation in her name by submitting Ext.P8 application, which however came to be rejected as per Ext.P9 order dated 8.1.2015 stating that, there was some violation of the 'patta' conditions. This made the petitioner to approach this Court by filing the writ petition.

2. Heard the learned Government Pleader as well.

3. On going through the pleadings and proceedings, it is seen that the flow of title stands intact and rights and liberties of the petitioner to enjoy the property covered by the documents as mentioned above, cannot be disputed. Mutation to be effected is only a process whereby the Transfer of Registry is to be effected; which however cannot confer or divest the title, as made clear by this Court on several

occasions. That apart, there was no dispute from any corner so far, with regard to the rights and liberties of the husband of the petitioner, which came to be settled pursuant to Exts. P1 and P2 judgments and the very same property has come to the hands of the petitioner by virtue of Ext.P7 settlement deed executed by the husband.

In the said circumstance, the stand taken by the fourth respondent as per Ext.P9 is not liable to be entertained. Ext.P9 is set aside. There will be direction to the fourth respondent to effect the change in Registry in terms of the Transfer of Registry Rules, in the name of the petitioner and to pass appropriate orders on Ext.P8 afresh. The land tax shall be collected from the petitioner as and when the same is tendered. The proceedings as above shall be completed within 'two weeks' from the date of receipt of a copy of this judgment. It is also made clear that, if there is any violation of any condition in the 'Patta', this will not bar the way of concerned respondents/authorities in taking appropriate steps in accordance with law.

Writ petition is disposed of.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the fourth respondent for further steps.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Scl.