

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 31<sup>ST</sup> DAY OF MARCH 2023 / 10TH CHAITHRA, 1945

WP(C) NO. 58 OF 2023

**PETITIONER:**

SURESH KUMAR PALANISWAMI  
AGED 43 YEARS  
S/O LATE M. PALANISWAMI, R/AT HOUSE NO. 414,  
ANTHONIYAR NALLATHANNI COLONY, MUNNAR POST, MUNNAR  
VILLAGE, DEVIKULAM TALUK, IDUKKI DISRICT, PIN - 686612

BY ADVS.  
S.JIJI  
M.M.BABY2022

**RESPONDENTS:**

- 1 THE TAHASILDAR  
DEVIKULAM TALUK OFFICE COMPLEX, DEVIKULAM POST &  
TALUK, IDUKKI, PIN - 685613
- 2 THE VILLAGE OFFICER  
MUNNAR VILLAGE OFFICE, MUNNAR P.O., DEVIKULAM TALUK,  
IDUKKI DISTRICT, PIN - 685612

SRI. BIMAL K.NATH -G.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
31.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner has approached this Court being aggrieved by the rejection of application for mutation in respect of the property covered by Ext.P3 document. It is the case of the petitioner that an identical issue was considered by this Court in Ext.P8 judgment, where this Court held as follows:-

*“7. In a case like the instant one, where the petitioner states that he has purchased property from the registered “land holder”, then clauses (a), (b) & (c) of Sec.3(3) will not be attracted and the case would be straight away pigeon hole, in terms of clause (d) of Sec.3(3). From the case of the petitioner, it appears that the predecessor-in-interest of the petitioner, that the property was duly mutated in favour Thamizharasi, the predecessor-in-interest of the petitioner pursuant to the purchase made by her, in respect of the said property, as per Ext.P-2 registered sale deed and that the basic land tax has also been accepted from her consistently and that be so, the petitioner’s vendor is the registered “land holder”, as per the basic tax register as understood in Sec.3(3). Where the registered “land holder” alienates the property, then the assignee concerned will stand in the shoe of the registered “land holder”. In a case where the registered “land holder” lived and died leaving the said property, then the legal representatives of the registered “land holder” would step into the shoe of the “land holder”, as understood in Sec.3(3). Then this is the simple position flowing from Sec.3(3) (d), then it is the legal obligation of the competent revenue officials like respondents 2 & 3 to accept basic land tax from the “land holder” as understood in Sec.3(3), more particularly clause (d) thereof. As otherwise, it would be in violation of their obligations and duties cast on them by the legislature, as per Sec.5(2), which is nothing but abdication of the duties and dereliction from their duties, as it leads to loss of revenue to the State. The only exception to this scenario would be in a case where any competent court has directed the competent revenue officials concerned not to interdicting them from accepting basic land tax or any proceedings have been validly initiated and concluded with due notice to the parties, whereby it is conclusively established that the land otherwise belongs to the Government, etc. Save in those exceptional circumstances, the obligation of the competent revenue officials of the respondents 2 & 3 is clear like the day light. However, request for mutations are being intermittently delayed and even ultimately denied on*

*grounds as stated in Ext.P-5. It is trite that mere grant of mutation, transfer of registry and acceptance of basic land tax will not confer or extinguish title on any persons and the summary enquiry contemplated under Rule 16 of the Transfer of Registry Rules is only a limited arrangement for fiscal purposes, to ensure due collection of revenue to the public sector and any such mutations so granted, could not amount to conferment of any title and if any person concerned has any dispute regarding the title of the person who has secured mutation, then the such issues should be resolved in civil courts regarding dispute of title and thereafter upon the conclusive judicial verdicts in such disputation, the mutation will have to be revised, on the basis of such verdicts of the civil court, as clearly envisaged and mandatory in Rule 16. What can be gathered from Ext.P-5 is that the 2nd respondent Tahsildar has taken the stand in his letter No.C2-10466/16 dated 22.12.2016 referred to therein that the "land holder" has passed some award/order as against TATA-FINLAY, etc. It is not even specifically stated therein that the subject property covered by Ext.P-1 forms part of the said lands of the said company, etc. Even if that was so, grant of mutation cannot in any manner prejudice the initiation and finalisation of any such proceedings provided, which is validly initiated and concluded in the manner known to law, after due adherence to the procedure, so as to ensure fairness to such affected persons.*

*8. Hence, it is only to be held that the impugned stand of the respondents 2 & 3 is clearly illegal and ultra vires and accordingly, the refusal to grant mutation and acceptance of basic land tax in respect of the petitioner as per Ext.P-5 is declared and ordered to be illegal and ultra vires and the same will stand set aside. Further it is ordered that the 3rd respondent will immediately take up the request made by the petitioner for mutation, transfer of registry and acceptance of basic land tax and after affording a reasonable opportunity of being heard to the petitioner, will grant the request of the petitioner, if it is otherwise in order. Orders in this regard should be duly passed by the 3rd respondent, without much delay, preferably within a period of four weeks from the date of production of a certified copy of this judgment. It is hoped and expected that the 3rd respondent will not unnecessarily again drive the petitioner to run from pillar to post and to litigate the matter. The 3rd respondent would pass orders in that as hereinabove strictly in compliance with the findings and observations made by this Court hereinabove."*

2. The learned Senior Government Pleader states that the directions issued in ExtP8 can be issued in this case also making it clear that the mutation and payment of tax, if any, by the petitioner in respect of the

property covered by Ext.P3 is only for fiscal purposes and does not amount to conferment of any title.

3. Having heard the learned counsel for the petitioner and the learned Senior Government Pleader appearing for the respondents, this writ petition will stand disposed of directing the 1<sup>st</sup> respondent to consider the claim of the petitioner for mutation in accordance with law and having regard to the findings of this Court in Ext.P8 judgment. It is made clear that if mutation is effected and land tax is accepted from the petitioner, the same will not amount to conferment of any title to the petitioner and the same will be only for fiscal purposes.

**Sd/-**  
**GOPINATH P.**  
**JUDGE**

acd

**APPENDIX OF WP (C) 58/2023**

PETITIONER EXHIBITS

- Exhibit P-1                      TRUE COPY OF THE DEATH CERTIFICATE OF M. PALANISWAMI DATED 22-06-2022 ISSUED BY THE REGISTRAR OF BIRTHS & DEATHS, COIMBATORE MUNICIPAL CORPORATION.
- Exhibit P-2                      TRUE COPY OF THE FAMILY MEMBERSHIP CERTIFICATE OF M. PALANISWAMI DATED 01-08-2022 ISSUED BY THE MUNNAR VILLAGE OFFICER
- Exhibit P-3                      TRUE COPY OF THE SALE DEED NO. 1007/2022 DATED 02-04-2022 OF S.R.O. DEVIKULAM EXECUTED BY P.S. MANI.
- Exhibit P-4                      TRUE COPY OF THE CONSENT LETTER DATED 24-11-2022 ISSUED BY THE OTHER HEIRS OF THE PALANISWAMI IN FAVOUR OF THE PETITIONER
- Exhibit P-5                      TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER AND OTHERS DATED 03-11-2022 BEFORE THE 2ND RESPONDENT
- Exhibit P-6                      TRUE COPY OF THE REPLY ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 17-11-2022
- Exhibit P-7                      TRUE COPY OF THE BASIC TAX RECEIPT DATED 30-07-2019 ISSUED FROM THE 2ND RESPONDENT OFFICE TO THE PRIOR TITLE HOLDER P.S. MANI IN FAVOUR OF THIS PROPERTY
- Exhibit P-8                      TRUE COPY OF THE JUDGMENT IN W.P.(C.) NO. 1578/2019 DATED 18-01-2019 OF THIS HON'BLE COURT