

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 26TH JULY 2010 / 4TH SRAVANA 1932

WP(C).No. 17651 of 2010(F)

PETITIONER(S) :

DEVASSIA JOSEPH, AGED 45 YEARS,
S/O.JOSEPH, ELAMBASSERY (H),
NALLOORNADU, KAMMANA (PO),
MANANTHAWADY, WAYANADU DIST.

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENT(S) :

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE TAHSILDAR, MANANTHAWADY,
WAYANADU.
3. THE SUB REGISTRAR, MANANTHAWADY,
WAYANADU.
4. JOSE, S/O.VARKEY, KUNNATHUKUZHY (H),
NALLOORNADU, KAMMANA (P.O),
MANANTHAWADY, WAYANADU DIST. PIN 670 645.

GOVT. PLEADER SHRI.M.A.ASIF
ADV. SRI.AJEESH S.BRITE FOR R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26/07/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P. (C) .No. 17651/2010

APPENDIX

PETITIONER(S) ' EXHIBITS

- P1. COPY OF THE SSALE DEED DTD.7.12.09.
- P2. COPY OF THE APPLICATION FOR MUTATION.
- P3. COPY OF THE LETTER DTD.23.3.2010 BY R2.

RESPONDENT(S) ' EXHIBITS:

- R4A. COPY OF THE AGREEMENT DTD.2.7.2010.

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///True copy///

P.A. to Judge

S.SIRI JAGAN, J.

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W.P.(C).No.17651 of 2010

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Dated this the 26th day of July, 2010

J U D G M E N T

The petitioner purchased 1.30 cents of land from the 4th respondent as per Ext.P1 sale deed. Pursuant thereto, he is in possession and enjoyment of the property from the date of execution of the document, viz., 7.12.2009. When the petitioner requested for mutation of the property in his name and acceptance of basic tax, the same was rejected by the Tahsildar, by Ext.P3 order, stating that the 4th respondent had executed a cancellation deed in a stamp paper worth Rs.50/-. According to the petitioner, Ext.P3 is totally illegal and unsustainable. By virtue of Ext.P1, the petitioner is the landholder and therefore, he is entitled to pay basic land tax in respect of the property in accordance with the Kerala Land Tax Act, 1961. The petitioner, therefore, seeks the following reliefs:

- "i) Issue a writ of certiorari or any other appropriate writ or order quashing Ext.P3 letter.
- ii) Issue a writ of mandamus or any other appropriate writ or order directing the respondent 1 to 3 to effect mutation of the property covered by Ext.P1 sale deed in favour of the petitioner and to accept basic land tax from him."

2. After receipt of notice in this writ petition, the 4th respondent has filed a counter affidavit stating thus:

- "1. I am the 4th respondent in the Writ Petition. I know the facts of this case. I am authorised to swear this counter affidavit.
2. All averments in the Writ Petition except those which are admitted hereunder are false and hence denied.

3. It is submitted that 4th respondent has executed a cancellation deed after the execution of Exhibit P1 sale deed since there was no valid consideration and he has also filed O.S.No.88/2001 before Munsiff Court, Mananthawady to cancel the sale deed. In the meantime, the 4th respondent has lodged a complaint to Tahsildar and consequently Exhibit P3 letter is issued refusing to accept tax.
4. However, it is respectfully submitted that the dispute is now settled between writ petitioner and 4th respondent and an agreement has been executed to that effect. A true copy of the agreement executed between writ petitioner and 4th respondent dated 02.07.2010 is produced herewith and may be marked as **EXHIBIT R[4]a**. It is submitted that the 4th respondent has no complaint in permitting the writ petitioner to remit the land tax with respect to the land covered by Exhibit P1 sale deed."

In view of the same, there cannot be any difficulty for the 2nd respondent to effect mutation of the property in the petitioner's name and to accept basic land tax from the petitioner. Accordingly, this writ petition is disposed of with the following directions:

The 2nd respondent shall effect mutation of the property in the name of the petitioner and direct the Village Officer concerned to accept basic land tax from the petitioner in respect of the property in question within two weeks from today. The 4th respondent shall see that the original of Ext.R4[a] is registered with the 3rd respondent-Sub Registrar, within a period of one month from today.

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Sd/-
S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge

