

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF DECEMBER 2018 / 29TH AGRAHAYANA, 1940

WP(C).No. 41636 of 2018

PETITIONER:

LISY JOHN
AGED 48 YEARS
W/O. JOHN VARGHESE, CHOORAKKATTUMANNIL HOUSE,
VAYYATTUPUZHA POST,
PATHANAMTHITTA DISTRICT - 689 663.

BY ADV. SRI. AVANEESH KOYIKKARA

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 2 DISTRICT COLLECTOR
PATHANAMTHITTA - 689 645.
- 3 TAHSILDAR (LAND RECORDS)
TALUK OFFICE, KONNI, PATHANAMTHITTA DISTRICT,
PIN - 689 691.
- 4 VILLAGE OFFICER
VILLAGE OFFICE, CHITTAR, PATHANAMTHITTA DISTRICT,
PIN - 689 663.
- 5 SUB REGISTRAR
SUB REGISTRAR OFFICE, PERUNAD,
PATHANAMTHITTA DISTRICT, PIN - 689 571.

SRI. SAIGI JACOB PALATTY, SR. GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20.12.2018, ALONG WITH W.P(C) NOS. 41697/2018 & 41758/2018, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

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W.P(C)Nos. 41636, 41697 & 41758 of 2018

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Dated this the 20th day of December, 2018

JUDGMENT

According to the petitioners they have purchased the property in question, as per registered sale deeds, which has been produced as Ext.P-1 in these three cases. Further, that they had approached the respondents 3 & 4 for mutation and acceptance of basic land tax in respect of the abovesaid property and the same was refused on the ground that earlier the lands in question was plantation and has secured exemption under Sec.81(e) of the Kerala Land Reforms Act from ceiling proceedings and that fragmentation of such exempted lands could lead to non-use of the said land for the exempted purpose and that therefore, the property cannot be mutated, etc., the matter in issue is no longer res integra and is covered in favour of the petitioners as per the dictum laid down by this Court in ***Devassia v. Sub-Registrar, Idukki & others*** [2015(1)KLT 825=2015(1)KHC 805], wherein it has been held that the provisions in the Land Reforms Act do not plays any embargo on transfer and transfer of registry for fiscal purposes and that the revenue officials

cannot refuse to effect mutation of the property purchased by the transferee, etc. This Court has issued the following directions in paragraph.14 of **Devassia's case** (supra) [2015(1)KLT 825], reads as follows:

"14. In view of the above, these Writ Petitions are disposed with the following directions:

- i. There shall be a direction to the Revenue Officials to effect mutation in respect of the properties obtained by the purchasers based on valid title.*
- ii. If any of the properties are found to be converted before or after the purchase, the Revenue Officials are free to bring it to the notice of the Taluk Land Board or the appropriate Authorities to include the property in the account of the holder of land at the time of exemption for the purpose of ceiling.*
- iii. The registering authority shall not insist for no-objection certificate for the reason that the land is exempted land for the purpose of registration.*
- iv. The transfer of exempted land as a whole or in part can be acted upon for the purpose of registration or effecting mutation.*
- v. In the light of the directions above, the Registering Authority and Revenue Officials are directed to do the needful in these matters to register the document and effect mutation within a period of four weeks from date of receipt of a copy of this Judgment. No costs."*

2. Accordingly, the directions and orders issued by this

Court in **Devassia's case** (supra) will regulate this case as well. Accordingly, it is ordered that the 4th respondent-Village Officer will immediately take up the request made by the petitioners for grant of mutation, transfer of registry and acceptance of basic land tax, in respect of the abovesaid property covered by Ext.P-1 registered sale deeds and after affording a reasonable opportunity of being heard to the petitioners and grant the said request. Necessary orders in this regard should be passed by the 4th respondent-Village Officer, within one month from the date of production of a certified copy of this judgment.

With these observations and directions, these Writ Petitions (Civil) will stand disposed of.

Sd/-

ALEXANDER THOMAS, JUDGE

vgd/27.12.18

APPENDIX OF W.P(C)NO.41636 OF 2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE SALE DEED OF 4.4 ARES OF LAND IN SURVEY NO.946/1 OF CHITTAR VILLAGE DATED 09/01/2017 REGISTERED IN FAVOUR OF PETITIONER AT SUB REGISTRY, PERUNAD AS PER SALE DEED NO.29/1/2017.
EXHIBIT P2	TRUE COPY OF THE RECEIPT TOWARDS THE PAYMENT FOR TRANSFER OF REGISTRY (POKKU VARAVU FEE RECEIPT) DATED 30/01/2017.
EXHIBIT P3	A COPY OF THE JUDGMENT IN WP(C) NO.22474/2017 DATED 24/07/2017.