



2024:KER:87333

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

WEDNESDAY, THE 20TH DAY OF NOVEMBER 2024/29TH KARTHIKA, 1946

W.P.(C) NO. 29093 OF 2024

PETITIONER:

VARGHESE KARUMATHY MATHEW @ VARGHESE MATHEW
AGED 56 YEARS, S/O. MATHEW, KARUMATHY HOUSE,
MARANGADAM KARA, KARUKUTTY VILLAGE, ALUVA
TALUK,ERNAKULAM DISTRICT, NOW RESIDING AT
BERGHOFSTRASSE 24, 8625 GOSSAU ZH, SWITZERLAND
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
MATHEW THOMAS, AGED 55 YEARS, S/O. THOMAS,
ANGEVEETTIL HOUSE, KANCHIYAR PO, IDUKKI
DISTRICT, PIN - 685511.

BY ADVS.
BIJU .C. ABRAHAM
THOMAS C.ABRAHAM
BASIL MATHEW

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR
COLLECTORATE IDUKKI, KUYILIMALA, PAINAV PO,
IDUKKI DISTRICT, PIN - 685603.



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2* STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001.

*IS IMPEADED AS PER ORDER DATED 09-09-2024 IN
IA 1/2024 IN WPC 29093/2024.

SRI. JAFFER KHAN, SR. GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR FINAL
HEARING ON 28.10.2024, THE COURT ON 20.11.2024 DELIVERED
THE FOLLOWING:



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ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

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Dated this the 20th day of November, 2024

JUDGMENT

P.G.Ajithkumar, J.

The petitioner is the owner in possession of 3.54 Ares of land comprised in re-survey No.56/2 in Block No.58 of Kattappana Village in Udumbanchola Taluk. Alleging that the respondents although initiated an action to verify genuineness of patta obtained by his predecessors-in-interest in respect of the said property, Ext.P2, the same has been getting protracted, the petitioner has filed this writ petition under Article 226 of the Constitution of India seeking the following relief:

“To issue a writ of mandamus or any other appropriate writ or order directing the respondent to take a final decision on the genuinity of Ext.P2 of the property of the petitioner covered by Ext.P1 forthwith or within such time as this Hon'ble Court may deem fit and proper in the interest of justice with notice and opportunity of hearing to the petitioner.”



2. The petitioner purchased the said property by virtue of Ext.P1, sale deed No.3652/2013. Ext.P2 is the patta as per which Sri.Thommen Joseph obtained the property in the year 1968. Ever since, the pattadar and subsequent purchasers have been making payment of land tax for the said property, after getting mutation effected in their respective names. However, in 2019 an enquiry was initiated saying that some unknown persons made a complaint about genuineness of Ext.P2 patta. The predecessor-in-interest had constructed a building in the property. The petitioner has availed a loan from the bank mortgaging the said property. Meantime, the petitioner entered into an agreement with one Shibu Chellappan for the sale of the said property. He had been making payments in the loan account in the HDFC Bank. Since there occurred default in the loan repayment, proceedings under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was initiated against the property. Although said Shibu Chellappan is ready to purchase the



property, the same could not be materialised owing to the reluctance on the part of the respondents to receive land tax for the property saying that an enquiry regarding the genuineness of Ext.P2 patta has been pending. In the said circumstances, the petitioner was constrained to file this writ petition.

3. The 1st respondent filed a counter-affidavit. The reason for holding an enquiry regarding genuineness of Ext.P2 patta and steps in that regard have been explained in the counter-affidavit. It is averred that since the file concerning issuance of patta was missing, there occurs delay in completing the enquiry. The averments of the 1st respondent in the above regard contained in paragraph Nos.3 to 7 of the counter-affidavit are extracted below:

"3. The disputed land, according to the petitioner, was assigned by the Special Tahsildar (LA) as per Exhibit P2 Patta No.LA 162/68 dated 31.12.1969. In 2013, the petitioner purchased 3.54 Ares of land included in the above Patta vide Exhibit-P1 Sale Deed and consequently, the land was effected mutation based on Exhibit P1 Sale Deed. The petitioner further asserts that



the property included in Exhibit P1 Sale Deed was originally situated in Ayyappancoil Village. After bifurcation of the Village, the property is now situated in Kattappana Village.

4. It is respectfully submitted that, on the basis of the complaint of one M.L.Augusty, an enquiry was conducted by the Vigilance Department with respect to Exhibit P2 patta. On 13.04.2021, Inspector of Police attached to Office of the Idukki Unit submitted a Preliminary Report, which was forwarded to the Director, Vigilance and Anti-Corruption Bureau, Thiruvananthapuram with recommendation by the Police Superintendent on 07.05.2021. Copy of the preliminary investigation report submitted by the Inspector of Police, Idukki Unit dated 13.04.2021 is produced herewith and may be marked as Exhibit-R1(a). The aforesaid report recommended the authority to conduct an enquiry through the District Collector. Copy of the Letter of the Police Superintendent, Vigilance and Anti Corruption Bureau, Kottayam dated 07.05.2021 is produced herewith and may be marked as Exhibit-R1(b).

5. On 01.11.2021, the Additional Chief Secretary, Revenue (A) Department sent a Letter to the District Collector, Idukki, directing to conduct an enquiry regarding the validity of Patta. Copy of the Letter of the Additional Chief Secretary dated 01.11.2021 is produced



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herewith and may be marked as Exhibit-R1(c). Immediately, the District Collector, Idukki called for a report from the Village Officer, Kattappana, who submitted a detailed report to the 1st respondent on 11.05.2022. Copy of the report of the Village Officer, Kattappana dated 11.05.2022 is produced herewith and may be marked as Exhibit-R1(d). Besides, on 06.05.2022 the Village Officer, Ayyappancoil, submitted a report regarding the status of Exhibit P2 Patta. Copy of the report of the Village Officer, Ayyappancoil dated 06.05.2022 is produced herewith and may be marked as Exhibit-R1(e). The aforesaid report stated that there is no entry in the records regarding the issuance of Exhibit-P2 Pattah from the Village Office, Ayyappancoil. Furthermore, it revealed an entry in the issue register related to another Patta with the same number. Copy of the relevant pages of the Issue Register relating to Patta No.LA 162/68 are produced herewith and may be marked as Exhibit-R1(f). Notably, in Ayyappancoil Village, there is no land registered in the name of Pattadhar Sri. Thomman Joseph Anversely, Lisamma John, Kanjiramthanathu, obtained Patta No.LA 162/68 pertaining to the land comprised in Survey No.19/1. Copy of the Thandaper No.1010 granted to Smt. Lisamma is produced herewith and may be marked as Exhibit-R1(g).



6. Even though, the Pattadhar Sri. Joseph, S/o. Thomman had obtained Exhibit-P2 Patta in 1969, he remitted Land Tax for the first time in 2000, on the basis of the order passed by the District Collector. Copy of the relevant pages of the Thandaper No.2274 is produced herewith and may be marked as Exhibit-R1(h). In Exhibit-R1(h) Thandaper, it was stated that the aforesaid Thandaper Account was opened on the basis of the order passed by the District Collector, No.K.DIS B1-6437/2000 dated 07.06.2000. However, it is respectfully submitted that the file relating to the Assignment of Patta No.162/68 and the proceedings led to order No.K.DIS B1-6437/2000 dated 07.06.2000 are not available in the office of the 1st respondent.

7. The Vigilance Department reported that they could not verify the genuineness of Patta due to the absence of Patta file and disposal file No.K.DIS B1-6437/2000 dated 07.06.2000. That apart, the report further recommended the District Collector to examine the validity of Patta No.162/68. It is respectfully submitted that the office of the 1st respondent has initiated necessary steps to locate the missing file through various offices. Due to the absence of the LA file, this respondent cannot approve the genuineness of the Patta."



4. Heard the learned counsel for the petitioner and the learned Special Government Pleader.

5. Ext.R1(a) is the report of preliminary investigation conducted by the Inspector of Police, VACB, Idukki. Same report is Ext.P14 also. As narrated in the counter-affidavit, following a complaint that Ext.P2 patta is a fake one submitted by one M.L.Augusty, an enquiry by the Vigilance Department was initiated. In Ext.R1(a) report, it is stated that since the files concerning issuance of Ext.P2 patta and several other similar documents were missing, the Department could not complete the investigation. In the enquiry, no entry corresponding to Ext.P2 in the records presently available in the Village Office, Ayyappancoil could be traced. Moreover, an entry in the issue register relating to another patta with the same number was found also. Citing those reasons, the vigilance enquiry concluded that on tracing the records and conducting an enquiry at the instance of the District Collector alone, genuineness of the patta could be ascertained. When the same is the state of affairs, an enquiry



as contemplated in Ext.R1(a) is absolutely essential. The prayer of the petitioner is to conclude that enquiry within a time frame.

6. Having heard the submission of the learned counsel for the petitioner and the learned Special Government Pleader and also perused the materials on record, we are of the view that there shall be a direction to the 1st respondent to complete the enquiry as suggested in Ext.R1(a) within a time limit.

7. Accordingly, this writ petition is allowed and the 1st respondent is directed to complete the enquiry as suggested in Ext.R1(a) within a period of four months from the date of receipt of a certified copy of this judgment.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE



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APPENDIX OF WP(C) 29093/2024

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE SALE DEED NO. 3652/2013 DATED 17/10/2013
- EXHIBIT P2 TRUE COPY OF THE PATTa IN L.A. NO. 162/68 ISSUED BY THE SPECIAL TAHSILDAR (LA), PEERUMEDU, DATED 31/12/1969 ALONG WITH TYPED COPY
- EXHIBIT P3 TRUE COPY OF THE ORDER BEARING NO. C1.6437/2000/KDS DATED 09/06/2000 ISSUED BY THE RESPONDENT WITH TYPED COPY
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION DATED 21/11/2021 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR, IDUKKI DISTRICT
- EXHIBIT P5 TRUE COPY OF THE LETTER BEARING NO. 129016/2022 DATED 15/10/2022 ISSUED BY THE DISTRICT COLLECTOR, IDUKKI TO THE SPL.TAHSILDAR (LA), PEERUMEDU AND RE SURVEY SUPERINTENDENT, RE SURVEY OFFICE, PEERUMEDU
- EXHIBIT P6 TRUE OF THE JUDGMENT DATED 16/8/2010 PASSED BY THIS HON'BLE COURT IN W.P. (C). NO. 19219/2010
- EXHIBIT P7 TRUE COPY OF THE INTERIM ORDER DATED 04/04/2023 IN W.P.(C). NO. 3085/2023 OF THIS HON'BLE COURT
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT DATED 06/07/2023 PASSED BY THIS HON'BLE COURT IN W.P.(C). NO. 3085/2023



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EXHIBIT P9 TRUE COPY OF THE REPRESENTATION DATED 07/07/2023 SUBMITTED BY THE PETITIONER BEFORE THE HDFC BANK, RAVIPURAM, KOCHI

EXHIBIT P10 TRUE COPY OF THE JUDGMENT DATED 27/07/2023 PASSED BY THIS HON'BLE COURT IN W.P. (C). NO. 23636/2023

EXHIBIT P11 TRUE COPY OF THE REVIEW PETITION BEARING R.P. NO. 242/2024 DATED 09/02/2024 (EXCLUDING ANNEXURES) FILED BY THE STATE OF KERALA OF THIS HON'BLE COURT

EXHIBIT P12 TRUE COPY OF THE JUDGMENT DATED 18/03/2024 PASSED BY THIS HON'BLE COURT IN CON. CASE (C) NO. 2679/2023

EXHIBIT P13 TRUE COPY OF THE NOTICE BEARING NO. DCIDK/5362/2021/C1 DATED 15/03/2024 ISSUED BY THE RESPONDENT WITH TYPED COPY

EXHIBIT P14 TRUE COPY OF THE REPORT BEARING NO. PE02/2020/IDK DATED 13/04/2021 SUBMITTED THAT THE INSPECTOR VACB, IDUKKI

RESPONDENT EXHIBITS

EXHIBIT R1 (A) TRUE COPY OF THE PRELIMINARY INVESTIGATION REPORT SUBMITTED BY THE INSPECTOR OF POLICE, IDUKKI UNIT DATED 13.04.2021.

EXHIBIT R1 (B) TRUE COPY OF THE LETTER OF THE POLICE SUPERINTENDENT, VIGILANCE AND ANTI CORRUPTION BUREAU, KOTTAYAM DATED 07.05.2021.

EXHIBIT R1 (C) TRUE COPY OF THE LETTER OF ADDITIONAL CHIEF SECRETARY DT. 01.11.2021.



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- EXHIBIT R1 (D) TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER, KATTAPPANA DATED 11.05.2022.
- EXHIBIT R1 (E) TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER, AYYAPPANCOIL DATED 06.05.2022.
- EXHIBIT R1 (F) TRUE COPY OF THE RELEVANT PAGES OF THE ISSUE REGISTER RELATING TO PATTA NO. LA 162/68.
- EXHIBIT R1 (G) TRUE COPY OF THE THANDAPER NO.1010 GRANTED TO SMT. LISAMMA.
- EXHIBIT R1 (H) TRUE COPY OF THE RELEVANT PAGES OF THE THANDAPER NO. 2274.