

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF NOVEMBER 2017/7TH AGRAHAYANA, 1939

WP(C).No. 34410 of 2017 (A)  
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PETITIONER:  
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1. ABOOBACKER,  
AGED 67 YEARS, S/O. ISMAIL,  
KILIYINKAL HOUSE, VAZHAKALA VILLAGE, KAKKAND,  
THRIKKAKKARA P.O. PIN 682 021
2. BEEVI,  
AGED 63 YEARS, W/O. ABOOBACKER,  
KILIYINKAL HOUSE, VAZHAKALA VILLAGE, KAKKAND,  
THRIKKAKKARA P.O. PIN 682 021

BY ADV. SRI.A.B. JALEEL

RESPONDENT(S) :  
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1. THE SUB REGISTRAR,  
SUB REGISTRAR OFFICE  
ALANGAD, NORTH PARAVUR, ERNAKULAM DISTRICT PIN 683511.
2. THE SUB COLLECTOR,  
REVENUE DIVISIONAL OFFICE,  
FORT KOCHI, ERNAKULAM DISTRICT 682 001

BY GOVERNMENT PLEADER SMT VINEETHA HARIRAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 28-11-2017, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

K.V.

**K. VINOD CHANDRAN, J.**

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W.P.(C) No. 34410 of 2017 (A)  
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Dated: 28<sup>th</sup> November, 2017

**J U D G M E N T**

The petitioners are aggrieved with the entry made in the Encumbrance Certificate, which, according to the petitioners, is totally unwarranted and illegal.

2. The petitioners have certain properties in Survey Nos.133, 145, 146, 147, 149, 155 and 158 in Kadungallur Village, Paravur Taluk. The petitioners, on attempting construction in the property, were issued with Ext.P1 order dated 25.09.2014. Ext.P1 is a prohibitory order issued under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 and the Kerala Land Utilization Order, 1967. There is no challenge against the said order in this writ petition.

3. The petitioner applied for an Encumbrance Certificate and approached this Court with a writ petition, in which there was a direction to issue the Encumbrance Certificate.

4. The learned Counsel for the petitioner submits that, then, an Encumbrance Certificate was issued with an attachment noticed without any details. He returned the same and issued lawyer's notice as seen from Ext.P4. Then Ext.P5 was issued, in which the order of the Revenue Divisional Officer (RDO) dated 04.12.2014 was noticed as an encumbrance.

5. The 1<sup>st</sup> respondent has also filed a statement contending that Encumbrance Certificate is only an index of records maintained in the concerned Sub Registry and hence the order issued by the RDO was noticed. The index of records is with respect to an encumbrance and not otherwise. Any prohibitory order

issued by the RDO is not an encumbrance on the property and hence, the same need not be shown in the certificate. It is also stated that there is an instruction from the RDO to so include the order. The RDO obviously is unaware of the legal position and has issued such instructions out of ignorance.

The writ petition is allowed, directing the 1<sup>st</sup> respondent to issue an Encumbrance Certificate without showing the prohibitory order within a period of two weeks from the date of receipt of the certified copy of this judgment. No Cos s.

Sd/-  
K.VINOD CHANDRAN,  
JUDGE