

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 10TH DAY OF APRIL 2018 / 20TH CHAITHRA, 1940

WP(C).No. 6532 of 2018

PETITIONER

KAIPRATH BHARATHAN,
S/O. AMBU, AGED 62 YEARS, FISHERMAN, RESIDING AT KAIPRATH
HOUSE, MUZHAPPILANGAD AMSOM DESOM, KANNUR TALUK,
KANNUR DISTRICT. P.O. MUZHAPPILLANGAD PIN- 670 662

BY ADV.SRI.R.SURENDRAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT , SECRETARIAT,
THIRUVANANTHAPURAM- 695 001
2. THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR, KADACHIRA,
KANNUR TALUK, KANNUR DISTRICT PIN- 670621
3. THE REVENUE DIVISIONAL OFFICER
OFFICE OF REVENUE DIVISIONAL OFFICER,
GUNDERT ROAD, THALASSERY PIN- 670 101
4. THE DISTRICT COLLECTOR,
KANNUR DISTRICT COLLECTORATE, KANNUR PIN- 67 0001

BY SPL GOVERNMENT PLEADER SRI. K.J. MOHAMMAD ANZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sdr/-
13.04.18

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXHIBIT P1 TRUE COPY OF ORDER DATED JANUARY 1971 ISSUED BY TAHSILDAR, KANNUR TALUK TO THE PETITIONER IN APPENDIX-VI OF KERALA LAND ASSIGNMENT RULES
- EXHIBIT P2 TRUE COPY OF ORDER DATED 29.09.1980 ISSUED BY TAHSILDAR, KANNUR TALUK TO THE PETITIONER IN APPENDIX-1 OF KERALA LAND ASSIGNMENT RULES.
- EXHIBIT P3 TRUE COPY OF PATTA DATED 20.01.2000 ISSUED BY TAHSILDAR, KANNUR TALUK TO THE PETITIONER IN APPENDIX II OF KERALA LAND ASSIGNMENT RULES
- EXHIBIT P4 TRUE COPY OF LAND TAX RECEIPT DATED 16.09.2017 ISSUED BY THE VILLAGE OFFICER, MUZHAPPILANGAD VILLAGE TO THE PETITIONER.
- EXHIBIT P5 TRUE COPY OF GIFT DEED DATED 20.12.2017 EXECUTED BY THE PETITIONER
- EXHIBIT P6 TRUE COPY OF TREASURY RECEIPT DATED 26.12.2017 ON PAY- IN -SLIP DATED 25.12.2017
- EXHIBIT P7 TRUE COPY OF REPLY DATED 27.12.2017 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER

RESPONDENTS EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

sdr/-
13.04.18

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.6532 of 2018

Dated this the 10th day of April, 2018

JUDGMENT

The petitioner is a fisherman. He obtained a land from the State as per Ext.P1 Patta. The petitioner wants to transfer this property by executing a gift deed in favour of his son. The gift deed is produced as Ext.P5. The Sub Registrar refused to register the same stating that this land in question is a sea puramboke and the fair value was not fixed. It is also stated that Thandaper is not issued.

2. There is no prohibition based on the assignment order, therefore, the petitioner is free to assign all the interest he obtained based on the Patta in favour of any person. The right to effect transfer does not depend upon fixation of fair value and survey or based on Thandaper effected in respect of the property.

3. The learned Government Pleader has filed a statement on behalf of the fourth respondent. It is stated in

paragraphs 4 and 5 of the statement as follows:

“The order of assignment has been issued to the petitioner for an extent of 14 cents as per Rule 9(1) of the KLA Act. Pattayam has been issued only for 6 cents vide file No.F1/7512/'98 of Tahsildar, Kannur. Pattayam was issued in the case during early years when the authorities used to assign such sea puramboke land to fishermen for their upliftment. However, at present no such assignment of un-surveyed sea puramboke is being done.

The land under question is unsurveyed sea puramboke area. N.F.250/2 is just the plot no. given during the assignment procedure to identify the land of allottee and it is not possible in such cases to give thandaper number or fix fair value based on the said number.”

4. This Court is of the view that the document shall be registered based on the consideration set forth in the instrument. If no fair value is fixed in respect of the

property, that cannot be a reason to deny such registration. If the land in question is a sea puramboke or the State is having any right to proceed against the property, certainly, the State is free to proceed against such property. The change of hand will not preclude the State from proceeding against the property in accordance with law. Therefore, the writ petition is disposed of directing the Sub Registrar to register the document in accordance with law without any delay subject to the observations as above. The petitioner is free to represent the document for registration.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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