



2025:KER:95504

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 3RD DAY OF DECEMBER 2025 / 12TH AGRAHAYANA,

1947

WP(C) NO. 11930 OF 2022

PETITIONER:

B.K.N.PILLAI @ B.K.NARAYANA PILLAI,
AGED 77 YEARS
S/O.LATE BALAKRISHNA PILLAI, LEKSHMI NIVAS,
CHAMPION BHASKARAN NAIR ROAD, KUNNUKUZHI P.O.,
THIRUVANANTHAPURAM-695 037.

BY ADVS.
SHRI.M.GOPIKRISHNAN NAMBIAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS
SHRI.PAULOSE C. ABRAHAM
SHRI.RAJA KANNAN
SHRI.CHETHAN KRISHNA R.

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
KUDAPPANAKKUNNU, THIRUVANANTHAPURAM-695 043.
- 2 DISTRICT COLLECTOR,
2ND FLOOR, CIVIL STATION BUILDING, CIVIL STATION
ROAD, KUDAPPANAKKUNNU, THIRUVANANTHAPURAM-695
043.
- 3 VILASINI THANKACHI,
TC 13/319, GEETHAM, PATTOOR, VANCHIYOOR,
THIRUVANANTHAPURAM-695 035.
- 4 GEETHA DEVI THANKACHI,
TC 13/319, GEETHAM, PATTOOR, VANCHIYOOR,
THIRUVANANTHAPURAM-695 035.



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5 JAYACHANDRAN NAIR,
TC 13/319, GEETHAM, PATTOOR, VANCHIYOOR,
THIRUVANANTHAPURAM-695 035.

BY ADV SRI.S.NIKHIL SANKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03.12.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**VIJU ABRAHAM, J****WP(C) .No.11930 of 2022****Dated this the 3rd day of December, 2025****JUDGMENT**

Petitioner has approached this Court seeking to quash Ext.P16 and for a consequential direction to the 2nd respondent to issue 'pokkuvaravu patta' in the name of the petitioner, Thandaper number, and to allow the petitioner to pay land tax for the property which is the subject-matter of this writ petition.

2. Petitioner is the absolute owner in exclusive possession and enjoyment of the property having an extent of 20 cents in Survey No.1815 of Vanchiyoor Village and is running a business under the name and style 'Damor Brothers' therein. The said property was originally owned by one Gourikuttiy Amma, and the father of the petitioner was conducting a timber depot in the above property. While so, the aforementioned Gourikutty Amma and her husband Raghavan Pillai filed three suits as OS Nos.244/71, 412/71 & 907/72 before the



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Munsiff's Court, Thiruvananthapuram for permanent injunction restraining the father of the petitioner from installing any machine or from removing earth, for recovery of property and again for injunction restraining the father of the petitioner from interfering with their rights. These suits were considered, and OS No.244/71 was dismissed, OS No.412/71 was partly decreed, allowing the plaintiffs to recover arrears of rent and OS No.907/72 was also decreed in favour of the plaintiffs as per Ext.P1. Aggrieved by the said judgment, Karunakaran Nair and Govindan Nair, who are the legal heirs of Gourikutty Amma and Raghavan Pillai, who passed away during the pendency of the suits and the plaintiffs filed Appeal Suits as AS Nos.85/8 & 87/81 before the District Court, Thiruvananthapuram and against the judgment in OS No.907/72 & 412/71, the defendant, the father of the petitioner also preferred two appeals as AS No.101/81 & 102/81 before the District Court, Thiruvananthapuram. All the appeals were heard together. By the common



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judgment, Ext.P3 by the Appellate Court, the Court found that the father of the petitioner, R.Balakrishna Pillai, had perfected title over the plaint schedule property by adverse possession, and thereupon, the father of the petitioner became the absolute owner in possession and enjoyment of 20 cents of property in Survey No.1815 of Vanchiyoor Village. Against the common judgment, Karunakaran Nair and Govindan Nair preferred three second appeals as S.A.No.147/84,157/84 & 158/84 before this Court and all the three appeals were dismissed as per Ext.P4 judgment of this Court. The appeals preferred as SLP(C) No.5250-52/93 before the Apex Court were also dismissed as per Ext.P5. The learned counsel for the petitioner brought to my notice the specific finding by the Appellate Court in Ext.P3, that since such continued uninterrupted and hostile possession of the defendant to the knowledge of the plaintiff's continued for a period of more than 12 years after the passing of Ext.A1 decree, right of the plaintiff's suit property was lost by adverse



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possession and limitation at the time when they brought these suits and submitted that based on the same, the suits were dismissed. Thus, the litigation attained finality and the father of the petitioner became the absolute owner of the 20 cents of property in Survey No.1815 of Vanchiyoor Village. Thereafter, Ext.P6 Will was executed in favour of the petitioner, who is the son of Balakrishna Pillai. Thereupon petitioner submitted application for mutation of his name in the revenue records in respect of the 20 cents of property in Survey No.1815 of Vanchiyoor Village, which was initially dismissed as per Ext.P8 order dated 15.02.2006, which was challenged before this Court in WP(C) No.16731 of 2006, wherein this Court as per Ext.P9 order set aside and remitted the matter for reconsideration. After the remand, Ext.P10 order was issued holding that the petitioner is entitled to effect mutation in his name. Accordingly, mutation was effected in respect of 17 cents of property, which is now available for mutation, after an acquisition for



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road widening and tax was received after mutation, as evident from Ext.P11. Ext.P12 possession certificate was also issued by the Village Officer. Thereupon, the respondents herein, who are the legal heirs of late Karunakaran Nair, preferred an appeal before the Revenue Divisional Officer, challenging Ext.P10, which was allowed as per Ext.14 order stating that there is title dispute and further decision can be taken only in accordance with the orders passed by the competent Civil Court. Aggrieved by the same, revision was preferred by the petitioner, which was also dismissed as per Ext.P16, holding that the petitioner has to approach the competent Civil Court since there is a title dispute. It is aggrieved by the same that the present writ petition has been filed.

3. The learned counsel appearing for the respondents 3 and 4 submits that they are the real owners of the property and that the finding by the appellate as per the revisional authority that the issues can be resolved only after obtaining orders



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from the competent Civil Court is not liable to be interfered with, and further submits that the Will relied on by the petitioner is under challenge and the same has been brought to the notice of the authorities in Ext.P13 appeal stating that proceedings are pending as LAR No.12/2010.

4. A detailed counter affidavit has been filed by the 2nd respondent, District Collector and based on the same, the learned Government Pleader would submit that a title dispute can only be resolved by a competent civil court, and only based on the same that further proceedings on the request of the petitioner for effecting mutation could be initiated.

5. I have heard the rival contentions on both sides.

6. Admittedly, there were civil disputes between the petitioner as well as the party respondents which ultimately finality attained as per Ext.P5 order of the Apex Court. The finding by the Appellate Court in Ext.P3 judgment is to the effect that the plaintiff where in knowledge about



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the continued possession of the defendants for more than 12 years after the passing of Ext.A1 decree and therefore, the right of the plaintiff over the property was lost by adverse possession and limitation at the time when they brought the suit. The said finding has been upheld by the Apex Court.

7. Rule 2 of the Transfer of Registry Rules,1966 mandates that a Transfer of Registry takes place either by voluntary action of the owners, by virtue of decrees of Civil Courts, by Revenue sales, or by succession. So, going by the mandates of Rule 2, the authorities are bound to effect transfer of registry based on the decrees passed by the competent Civil Courts, which is admittedly passed in favour of the petitioner as per Exts.P3, P4 and P5 judgments. Therefore, the Tahsildar, while considering the matter, taking into consideration the competent decree and judgments passed in favour of the petitioner, by Ext.P10 order, allow the application for effecting transfer of registry and consequently, mutation



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was effected, and tax was received, as evident from Ext.P11. The only contention now raised by the respondents is that the petitioner has obtained the property by way of a Will and that the Will is under challenge in proceedings in LAR No.12 of 2010 and OS No.539 of 2010 and that only on finalising the said proceeding as to the veracity of the Will that mutation could be effected and the appellate and revisional orders have rightly interfered with the matter. But a pertinent aspect is to be noted is that the Transfer of Registry Rules, 1966, takes care of such situations also. Rule 16 of the Transfer of Registry Rules reads as follows:

"16. The summary enquiry and decision thereon is only an arrangement for fiscal purposes and does not affect the legal rights of any person in respect of the lands covered by the decisions in transfer of registry cases. The question of legal rights is always subject to adjudication by Civil Courts and pattas will be revised from time to time in accordance with judicial decisions."

On the basis of the same, if civil cases which are stated to be pending challenging the Will in



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favour of the petitioner, if found in favour of the party respondents herein, naturally, there is a mechanism as provided under Rule 16 of the Transfer of Registry Rules, 1966, to make necessary changes in the patta based on the declaration by the competent Civil Court.

8. Taking into consideration the above facts and circumstances, I am of the view that the petitioner is entitled to succeed. Ext.P16 is set aside, and Ext.P10 order is restored and tax shall be accepted from the petitioner in respect of the subject property. It is made clear that if there is a finding in favour of party respondents by a competent Civil Court, they can approach the authorities under the Transfer of Registry Rules for taking appropriate action in accordance with Rule 16.

The writ petition is disposed of as above.

sd/-

**VIJU ABRAHAM,
JUDGE**



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APPENDIX OF WP(C) NO. 11930 OF 2022

PETITIONER'S EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE COMMON JUDGMENT IN OS NO.244/71, OS NO.412/71 AND OS NO.907/72 DATED 31.07.1980 ON THE FILE OF THE MUNSIFF COURT, THIRUVANANTHAPURAM.
- EXHIBIT P2 TRUE COPY OF THE DECREE DRAWN IN OS NO.907/72 DATED 31.07.1980 ON THE FILE OF THE MUNSIFF COURT, THIRUVANANTHAPURAM.
- EXHIBIT P3 TRUE COPY OF THE COMMON JUDGMENT IN AS NO.85/81, 87/81, 101/81 AND 102/81 DATED 29.06.1983 PASSED BY THE IIND ADDITIONAL DISTRICT JUDGE, THIRUVANANTHAPURAM.
- EXHIBIT P4 TRUE COPY OF THE COMMON JUDGMENT DATED 03.10.1991 OF THE HON'BLE HIGH COURT OF KERALA IN SA NO/.147/84, 157/84 AND 158/84.
- EXHIBIT P5 TRUE COPY OF ORDER OF THE HON'BLE SUPREME COURT OF INDIA IN SPECIAL LEAVE TO APPEAL (CIVIL) NO.5250-52/93 DATED 29.04.1994.
- EXHIBIT P6 TRUE COPY OF WILL DATED 02.01.1986 EXECUTED BY BALAKRISHNA PILLAI IN FAVOUR OF THE PETITIONER.
- EXHIBIT P7 TRUE COPY OF THE APPLICATION (UNDATED) SUBMITTED BY THE PETITIONER BEFORE THE TAHDILSR, THIRUVANANTHAPURAM FOR PAYING LAND TAX.
- EXHIBIT P8 TRUE COPY OF THE ORDER OF THE ADDITIONAL TAHSIDLAR BEARING ORDER NO.,H4/18926/04 DATED 15.02.2006.
- EXHIBIT P9 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA IN WPC NO.16731/.2006 DATED 15.07.2016.
- EXHIBIT P10 TRUE COPY OF THE ORDER NO.H4-36022/16 PASSED BY THE TAHSIDLAR DATED 28.06.2017.
- EXHIBIT P11 TRUE COPY OF THE TAX RECEIPT BEARING NO.083175 DATED 16.05.2018 EVIDENCING THE PAYMENT OF LAND TAX IN THE NAME OF THE PETITIONER.
- EXHIBIT P12 TRUE COPY OF THE POSSESSION CERTIFICATE



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NO.3958/17 DATED 03.11.2017 ISSUED BY
VILLAGE OFFICER.

EXHIBIT P13 TRUE COPY OF THE MEMORANDUM OF APPEAL
DATED 13.07.2017 FILED BY THE
RESPONDENTS 3 TO 5 BEFORE THE REVENUE
DIVISIONAL OFFICER, THIRUVANANTHAPURAM.

EXHIBIT P14 TRUE COPY OF THE ORDER NO.B-15403/17
DDIS DATED 23.09.2019 OF THE SUB
COLLECTOR, THIRUVANANTHAPURAM.

EXHIBIT P15 TRUE COPY OF THE APPEAL MEMORANDUM
(WITHOUT ANNEXURES) FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT
DATED 03.1.2020.

EXHIBIT P16 TRUE COPY OF THE ORDER NO.B18-3751/2020
DATED 05.10.2021 PASSED BY THE 2ND
RESPONDENT IN APPEAL FILED BY THE
PETITIONER.