

(2021) 01 KL CK 0040

In the High Court Of Kerala

Case No : Writ Petition (C) No. 10462 Of 2020

Mayil Swamy N

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Kerala Restriction On Transfer By And Restoration Of Lands To Scheduled Tribes Act,
1999 — Section 1(3), 2(g), 4, 5, 5(1), 5(2), 5(3), 6, 7, 7(1), 7(2), 7(3), 7, (4), 7(5),
14, 15, 15(1), 15(2), 19, 20
Constitution Of India, 1950 — Article 226

Citation : (2021) 01 KL CK 0040

Hon'ble Judges : Anil K. Narendran, J

Bench : Single Bench

Advocate : K. Mohanakannan, M.M. Vinod Kumar, P.K. Rakesh Kumar, K.S. Mizver, M.J. Kirankumar, K.S. Madhusoodanan, A.C. Vidhya

Final Decision : Disposed Of

Judgement

1. The petitioner, who is in possession and enjoyment of 4.40 Acres of land in Sy.No.648/2 of Agali Village, covered by Ext.P1 sale deed bearing No.1734/1974 dated 10.04.1974 of the Sub Registrar Office, Mannarkkad, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P13 order dated 05.04.2019 of the 3rd respondent Sub Collector, Ottapalam and Ext.P15 order dated 13.02.2020 of the 2nd respondent District Collector, Palakkad.

2. According to the petitioner, the aforesaid property originally belonged to Mannarkkad Moopil Sthanam, as borne out from Ext.P2 document No.3133/1965 dated 21.10.1965; Ext.P3 document No.3108/1966 dated 23.09.1966; Ext.P4 document No.1012/1967 dated 17.03.1967; Ext.P5 document No.209/1968 dated 18.01.1968; and Ext.P6 document No.531/1968 dated 09.02.1968 of the Sub Registrar Office, Mannarkkad. The document marked as Ext.P7 is a possession certificate dated 26.01.1973 issued by the Land Tribunal, Agali in S.M. Proceedings No.15/1973 and that marked as Ext.P8 is a possession

certificate dated 21.05.1974 issued by the Land Tribunal, Agali, in S.M. Proceedings No.421/1974. In the year 1974, proceedings were initiated invoking the provisions under the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1975, against 4.40 Acres of land covered by Ext.P1 sale deed, by the 3rd respondent Sub Collector, at the instance of the predecessor-in-interest of the 3rd respondent. By the order dated 07.09.1987, the petitioner was directed to surrender 4.40 Acres of land. The 1975 Act was repealed by the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1999, with effect from 24.01.1986. Therefore, the 3rd respondent reconsidered the matter and issued Ext.P9 proceedings dated 14.08.2013, whereby the petitioner was directed to restore possession of 4.40 Acres of land. Ext.P9 order is one issued by the 3rd respondent in exercise of his powers under sub-section (3) of Section 7 of the Act of 1999. Challenging Ext.P9 order, the petitioner preferred an appeal before the 2nd respondent District Collector, under sub-section (5) of Section 7 of the said Act. By Ext.P10 order dated 22.08.2017, that appeal was allowed by remanding the matter to the 3rd respondent, to measure the property in terms of the documents and thereafter, reconsider the matter. After the order of remand, there was delay on the part of the 3rd respondent in finalising the matter. The petitioner had approached this Court in W.P. (C)No.29572 of 2018, which was disposed of by Ext.P11 judgment dated 28.09.2018, by directing the 3rd respondent to finalise the proceedings after completing all due procedure within a period of four months from the date of receipt of a copy of that judgment. Alleging police harassment, the petitioner had approached this Court in W.P.(C)No.9254 of 2019 and that writ petition was disposed of by Ext.P12 judgment dated 11.04.2019, taking note of Ext.P13 order dated 05.04.2019 of the 3rd respondent and also the submission made by the learned Senior Government Pleader that the police was only eager to ensure the law and order situation. By Ext.P13 order, the 3rd respondent upheld the claim of respondents 4 and 5 over the property having an extent of 4.40 Acres covered by Ext.P1 sale deed. Feeling aggrieved, the petitioner filed Ext.P14 appeal before the 2nd respondent District Collector, under sub-section (5) of Section 7 of the Act. The said appeal ended in dismissal by Ext.P15 order dated 13.02.2020 of the 2nd respondent, which is under challenge in this writ petition.

3. On 28.05.2020, when this writ petition came up for admission, this Court admitted the matter on file. The learned Government Pleader took notice for respondents 1 to 3 and the petitioner was directed to take out notice for respondents 4 and 5, within one week. While ordering the matter to be listed after one month for the counter affidavit of the respondents, this Court granted an interim stay of operation and implementation of Exts.P13 and P15, till then. The said interim order, which was extended from time to time, is still in force.

4. A counter affidavit has been filed by the 4th respondent, opposing the relief sought for in this writ petition. The petitioner has filed reply affidavit to the counter affidavit filed by the 4th respondent.

5. The 3rd respondent has also filed counter affidavit, opposing the relief sought for in this writ petition. The petitioner has filed reply affidavit to the counter affidavit filed by the 3rd respondent.

6. Heard the learned counsel for the petitioner, the learned Government pleader for respondents 1 to 3 and also the learned counsel for respondents 4 and 5.

7. The issue that arises for consideration in this writ petition is as to whether any interference is warranted on Ext.P13 order dated 05.04.2019 of the 3rd respondent and Ext.P15 order dated 13.02.2020 of the 2nd respondent, whereby the property having an extent of 4.40 Acres, covered by Ext.P1 sale deed is ordered to be restored to respondents 4 and 5, under the provisions of the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1999.

8. The learned counsel for the petitioner would contend that Ext.P13 order of the 3rd respondent and Ext.P15 order of the 2nd respondent are issued absolutely without any authority of law. Since the extent of land covered by Ext.P1 sale deed does not exceed two hectares, the bar under the first proviso to sub-section (1) of Section 5 of the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1999 is attracted. Since the land involved in Ext.P1 sale deed is used for agricultural purposes, the petitioner is entitled to retain the said land having an extent of less than two hectares, in view of the provisions under the second proviso to sub-section (1) of Section

5. The learned counsel would also contend that the findings of the original authority in Ext.P13 order and that of the appellate authority in Ext.P15 order are based on assumptions and presumptions. Moreover, the reasoning of the original authority and that of the appellate authority in those orders are palpably wrong. At any rate, the validity of Exts.P7 and P8 purchase certificates issued under the provisions of the Kerala Land Reforms Act, 1963 cannot be decided in a proceedings initiated under Section 7 of the said Act.

9. Per contra, the learned Government Pleader for respondents 1 to 3 and also the learned counsel for respondents 4 and 5 would support the reasoning of the original authority in Ext.P13 order and that of the the appellate authority in Ext.P15 order. The learned counsel for respondents 4 and 5 would contend that, since the transfer of property vide Ext.P1 sale deed is vitiated by fraud, the original authority is justified in ordering restoration of the land. The appellate authority in Ext.P15 order affirmed the stand taken by the original authority in Ext.P13 order, stating valid reasons.

10. The Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act, 1999 (for brevity, 'the Act of 1999') was enacted to provide for restricting the transfer of lands by members of Scheduled Tribes in the State of Kerala and for the restoration of possession of lands alienated by such members and for matters connected therewith. As per sub-section (3) of Section 1, the provisions of the Act of 1999 shall be deemed to have come into force on

24.01.1986.

11. Clause (g) of Section 2 of the Act of 1999 define the term 'transfer' to mean the transfer made by any person belonging to the Scheduled Tribe of lands in his ownership and possession to a person other than a member of the Scheduled Tribe by way of sale, mortgage, lease, gift and includes 'vilapanayam' and 'unduruthy'. Section 4 of the Act deals with restriction on transfer. Section 4, which starts with a non obstante clause provides that, notwithstanding anything to the contrary contained in any other law, or in any contract, custom or usage or in any judgment, decree, or order of any court, any transfer effected by a member of the Scheduled Tribe, of land possessed, enjoyed or owned by him on or after the commencement of this Act, to a person other than a member of a Scheduled Tribe, without the previous consent in writing of the competent authority, shall be invalid.

12. Section 5 of the Act deals with certain transfers to be invalid. As per sub-section (1) of Section 5, which starts with a non obstante clause provides that, notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any court, any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1st day of January, 1960, and before the commencement of this Act shall be deemed to be invalid. As per the proviso to sub-section (1) of Section 5, nothing in this section shall render invalid any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of Scheduled Tribe effected during the aforesaid period and the extent of which does not exceed two hectares. As per sub-section (2) of Section 5, notwithstanding anything contained in sub-section (1) or in any judgment, decree or order of any court or other authority, in cases where the land involved in such transfer is used for agricultural purposes, the transferee thereof shall be entitled to retain in his possession the said land up to an extend of two hectares which shall be demarcated by the Revenue Divisional Officer by order and in the manner as may be prescribed.

13. Section 6 of the Act of 1999 deals with allotment of lands. As per Section 6, notwithstanding anything contained in Section 5 or in any judgment, decree or order of any court or other authority, a member of a Scheduled Tribe who had effected any transfer of land, possessed, enjoyed or owned by him, to a person other than a member of a Scheduled Tribe, between the 1st day of January, 1960 and the 24th day of January, 1986 and where an application for restoration of right under Section 6 of the Kerala Scheduled Tribes (Restriction of Transfer of Lands and Restoration of Alienated Lands) Act, 1975 has been filed before publication of this Act in the Gazette, but the possession or enjoyment thereof, has not been restored to him and such transfer has been validated by the proviso to sub-section (1) of Section 5 or the transferee thereof has been made eligible for the retention of said land under sub-section (2) of Section 5, shall be entitled

to restoration of equal extent of land by way of allotment from the Government. As per the proviso to Section 6, where the extent of the land so allotted in respect of which there is eligibility for restoration of rights, is less than forty ares, Government shall allot the rest of the land required to make the total extent equal to forty ares (one acre).

14. Section 7 of the Act of 1999 deals with reconveyance of land. As per sub-section (1) of Section 7, whereby reason of a transfer of land, which is invalid under Section 4 or Section 5, a member of a Scheduled Tribe has ceased or ceases to be in possession or enjoyment thereof, he shall be entitled to the restoration of possession or enjoyment, as the case may be, of such land. As per sub-section (2) of Section 7, any person entitled to be restored to the possession or enjoyment of any land under sub-section (1) or any other person on his behalf may make an application, either orally or in writing, to the Revenue Divisional Officer within a period of one year from the date of publication of this Act in the Gazette or such further period as may be specified by Government by notification in the Gazette, (a) for restoration of possession or enjoyment, as the case may be, of such land if such transfer had been made before the date of commencement of this Act; or (b) for restoration of possession or enjoyment, as the case may be, of such land and for the prosecution of the person who has procured such transfer, if such transfer was made on or after the date of publication of this Act

15. As per sub-section (3) of Section 7 of the Act of 1999, on receipt of an application under sub-section (2), the Revenue Divisional Officer shall make or cause to be made, necessary inquiries in respect of such application and if he is satisfied that the applicant or the person on whose behalf the application has been made is entitled to restoration of possession or enjoyment, as the case may be, of the land mentioned in the application, he shall, by order, direct the person in possession or enjoyment of such land to deliver possession thereof to the applicant or to the person on whose behalf the application has been made or, as the case may be, to allow him to enjoy such land. As per the proviso to sub-section (3) of Section 7, no order, under this sub-section shall be made unless the person in possession or enjoyment of the land has been given a reasonable opportunity of being heard in the matter. As per sub-section (4) of Section 7, every order made under sub-section (3) shall be served on the person for whom it is intended (a) by delivering or tendering it to that person; or (b) if it cannot be delivered or tendered to that person, by delivering or tendering it to any officer of such person or any adult member of the family of such person or by affixing a copy thereof on the outer door or some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or (c) failing service by any of these means, by registered post.

16. As per sub-section (5) of Section 7 of the Act of 1999, any person aggrieved by an order of the Revenue Divisional Officer under sub-section (3) or sub-

section (2) of Section 5 may, within a period of thirty days from the date of service of the order, prefer an appeal to the competent authority, and the decision of the competent authority, on such appeal shall be final and shall not be called in question in any court of law. As per sub-section (6) of Section 7, where an order under sub-section (3) has not been complied with; and (a) an appeal has not been preferred within the time allowed for such appeal; or (b) an appeal having been preferred has been dismissed; the Revenue Divisional Officer shall cause the land to which the order relates to be delivered to the transfer or by putting him in possession or enjoyment of that land if need be, by evicting any person who refuses to vacate the same.

16. Section 14 of the Act of 1999, which deals with bar on proceedings against Scheduled Tribes under Chapter X of the Code of Criminal Procedure, provides that where a person claiming to be a member of a Scheduled Tribe on any other person on his behalf applies to the Revenue Divisional Officer for the restoration of possession or enjoyment of any land under the provisions of this Act, then, notwithstanding anything contained in any other law for the time being in force, no Magistrate shall have jurisdiction under Chapter X of the Code of Criminal Procedure in respect of any dispute between that person and any other person claiming to be in possession or enjoyment of the said land.

17. Section 15 of the Act of 1999 deals with powers of competent authority and Revenue Divisional Officer. As per sub-section (1) of Section 15, the competent authority and Revenue Divisional Officer while making inquiries under this Act shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the matters enumerated in clauses (a) to (c), namely, (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) any other matter which may be prescribed. As per sub-section (2) of Section 15, the decisions of the competent authority and the Revenue Divisional Officer under this Act shall have the force of a decree of a Civil Court and shall be executed through the Civil Court having jurisdiction over the area in which the land is situated.

18. Section 19 of the Act of 1999, which deals with saving of other laws, provides that the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act, except to the extent provided in this Act. As per Section 20 of the Act, which deals with bar of jurisdiction of Civil Courts, no Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is, by or under this Act, required to be settled, decided or dealt with or to be determined by the competent authority or the Revenue Divisional Officer.

19. The original authority [Revenue Divisional Officer] and the appellate authority [competent authority] are quasi judicial authorities created under the provisions of the Act of 1999. The powers of the original authority and that of the appellate

authority are circumscribed by the provisions contained in the said Act. The restriction on transfer contained in Section 4 of the Act, which starts with a non obstante clause, is attracted on any transfer effected by a member of the Scheduled Tribe, of land possessed, enjoyed or owned by him on or after the commencement of this Act, i.e., on or after 24.01.1986, to a person other than a member of a Scheduled Tribe, without the previous consent in writing of the competent authority. As per Section 4, any such transfer of land without the previous consent in writing of the competent authority shall be deemed to be invalid. On the other hand, Section 5 of the Act deals with any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1 st day of January, 1960, and before the commencement of the said Act, i.e., before 24.01.1986. The restriction on transfer of land contained in sub-section (1) of Section 5 of the Act, which starts with a non obstante clause, is attracted on any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1st day of January, 1960, and before the commencement of the said Act, i.e., before 24.01.1986. As per sub-section (1) of Section 5, any such transfer of land shall be deemed to be invalid. However, as per the proviso to sub-section (1) of Section 5, nothing in Section 5 shall render invalid any such transfer of land effected during the aforesaid period and the extent of which does not exceed two hectares. In view of the provisions under sub-section (2) of Section 5, in cases where the land involved in such transfer is used for agricultural purposes, notwithstanding anything contained in sub-section (1) or in any judgment, decree or order of any court or other authority, the transferee thereof shall be entitled to retain in his possession the said land up to an extend of two hectares which shall be demarcated by the Revenue Divisional Officer by order and in the manner as may be prescribed. In view of the provisions under sub-section (1) of Section 7, a member of a Scheduled Tribe who has ceased or ceases to be in possession or enjoyment of land by reason of a transfer of land, which is invalid under Section 4 or Section 5, shall be entitled to restoration of possession or enjoyment, as the case may be, of such land.

20. A conjoint reading of the provisions under Sections 4, 5 and 7 makes it explicitly clear that the Revenue Divisional Officer has no jurisdiction to entertain an application under sub-section (2) of Section 7, either orally or in writing, in respect of any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, the extent of which does not exceed two hectares, effected on or after the 1 st day of January, 1960 and before the commencement of the said Act, i.e., before 24.01.1986, in view of the proviso to sub-section (1) of Section 5 of the said Act. In the instant case, the extent of property in Ext.P1 sale deed bearing No.1734/1974 of the Sub Registrar Office, Mannarkkad dated 10.04.1974 is only 4.40 Acres (1.78062 hectare), which does not exceed two hectares.

21. The learned counsel for respondents 3 and 4 would contend that, even in a

case in which the proviso to sub-section (1) of Section 5 of the said Act is attracted, i.e., any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1st day of January, 1960, and before the commencement of the said Act, i.e., before 24.01.1986, and the extent of which does not exceed two hectares, the Revenue Divisional Officer can consider the question as to whether the document of transfer is fraudulently created in order to defeat the lawful rights of a member of a Scheduled Tribe. The learned counsel would also point out that, neither before the Revenue Divisional Officer nor before the appellate authority the petitioner herein raised a contention relying on the proviso to sub-section (1) of Section 5 of the Act.

22. In *Elyappadam Sivarajan and another v. Prabhakaran* [2016 (1) KHC 671] this Court noticed that, sub-section (1) of Section 5 of the Act of 1999 also invalidates the transfers effected on or after 01.01.1960 by the persons belonging to Scheduled Tribes to others who do not belong to any Scheduled Tribe. But the proviso to sub-section (1) of Section 5 of the said Act, however, clarifies that sub-section (1) of Section 5 shall not apply to transfers effected in respect of properties, the extent of which do not exceed two hectares.

23. In *Kunjiraman Nambiar and others v. State of Kerala and others* [2018 (4) KHC 257] this Court noticed that, as per sub-section (1) of Section 5 of the Act of 1999, any transfer effected by a member of a Scheduled Tribe to a person who is not such a member on or after 01.01.1960 is invalid and void. This is, of course, subject to the caveat inbuilt into the proviso that even such a transfer effected by a member of the Scheduled Tribe during the period of time shown in sub-section (1) of Section 5 would not be invalid, provided the extent of the property so transferred does not exceed two hectares. When a land comprised of an area over the extent shown in the proviso to sub-section (1) of Section 5 of the Act is in possession of another person under a transfer of the kind specified in the said Section, the member of a Scheduled Tribe can apply under sub-section (2) of Section 7 of the Act for its restoration.

24. In *Jose B.J. v. Sub Registrar* [2019 (1) KLT 663] this Court noticed that the proviso to sub-section (1) of Section 5 of the Act of 1999 has clearly mandated that nothing in sub-section (1) of Section 5 shall render invalid any transfer of land possessed, enjoyed or owned by any member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe effected during the period from 1st January, 1960 to 24th January, 1986 and the extent of which does not exceed two hectares. Therefore, even it is assumed that the Scheduled Tribe person had actually transferred the property during his life time and during the above said period covered by Section 5, such transfer of property will certainly be immune to the prohibition because of the beneficial stipulation in the proviso to sub-section (1) of Section 5 as aforesaid.

25. Clause (g) of Section 2 of the Act define 'transfer' to mean the transfer made by any person belonging to the Scheduled Tribe of lands in his ownership and

possession to a person other than a member of the Scheduled Tribe by way of sale, mortgage, lease, gift and includes 'vilapanayam' and 'unduruthy'. In view of the proviso to sub-section (1) of Section 5 of the Act of 1999, any transfer of land possessed, enjoyed or owned by a member of a Scheduled Tribe to a person other than a member of a Scheduled Tribe, effected on or after the 1 st day of January, 1960, and before the commencement of the said Act, i.e., before 24.01.1986, and the extent of which does not exceed two hectares, is beyond the scope of sub-section (1) of Section 7 of the Act, in respect of which no application can be entertained by the Revenue Divisional Officer, under sub-section (2) of Section 7, for restoration of possession or enjoyment. The transfer of land effected during the aforesaid period, the extent of which does not exceed two hectares, as specified in the proviso to sub-section (1) of Section 5, cannot be said to be one which is invalid under Section 4 or Section 5, in order to seek restoration of possession or enjoyment, by approaching by the Revenue Divisional Officer under sub-section (2) of Section 7. Therefore, the Revenue Divisional Officer has absolutely no jurisdiction to entertain an application under sub-section (2) of Section 7, in respect of such transfer of land, in order to consider the question as to whether the document of transfer is fraudulently created in order to defeat the lawful rights of a member of a Scheduled Tribe.

26. It is trite law that, any order passed by an authority without jurisdiction is void and non est in the eye of law. In *Union of India v. Association of Unified Telecom Service Providers of India* [(2011) 10 SCC 543] the Apex Court reiterated that, an order passed without jurisdiction would be a nullity. It will be a coram non judice and non est in the eye of the law. Principle of res judicata would not apply to such cases. Para.60 of the said decision reads thus;

"60. In *Chandrabhai K. Bhoir v. Krishna Arjun Bhoir* [(2009) 2 SCC 315] this Court relying on Chief Justice of A. P. v. L.V.A. Dixitulu [(1979) 2 SCC 34], *Union of India v. Pramod Gupta* [(2005) 12 SCC 1] and *National Institute of Technology v. Niraj Kumar Singh* [(2007) 2 SCC 481] has held:

".. an order passed without jurisdiction would be a nullity. It will be a coram non judice and non est in the eye of the law. Principle of res judicata would not apply to such cases."

27. In *Zuari Cement Ltd. v. Employees' State Insurance Corporation* [(2015) 7 SCC 690] the Apex Court held that, where there is want of jurisdiction, the order passed by the Court/Tribunal is a nullity or non est. What is relevant is whether the Court had the power to grant the relief asked for.

28. Relying on the principles laid down by the Apex Court in *Zuari Cement*, a Division Bench of this Court in *Manager, St. Dominic's College, Kanjirappally v. Joseph Chacko and others* [2016 (4) KHC 69] held that, in the absence of power conferred by the Statute, the parties cannot confer jurisdiction by consent. Objection as to want of jurisdiction can be raised at any stage and the fact that the parties had earlier acquiesced and submitted to the proceedings before an

authority or court which has no jurisdiction is of no consequence and that an order passed by such an authority or court is non est for want of jurisdiction. Para.14 of the said judgment reads thus;

"14. Principles laid down by the Apex Court makes it clear that, in the absence of power conferred by the Statute, the parties cannot confer jurisdiction by consent and that the High Court also cannot confer jurisdiction on such an authority. It is also evident that, objection as to want of jurisdiction can be raised at any stage and the fact that the parties had earlier acquiesced and submitted to the proceedings before the Court which has no jurisdiction is of no consequence and that an order passed by such an authority or Court is non est for want of jurisdiction."

29. In view of the proviso to sub-section (1) of Section 5 of the Act of 1999, any application before the Revenue Divisional Officer, under sub-section (2) of Section 7 of the said Act, for restoration of possession and enjoyment of the property having an extent of only 4.40 Acres (1.78062 hectare) covered by Ext.P1 sale deed bearing No.1734/1974 of the Sub Registrar Office, Mannarkkad dated 10.04.1974, is not maintainable for want of jurisdiction. Where there is want of jurisdiction, the order passed by the Revenue Divisional Officer is a nullity. The fact that the petitioner had earlier acquiesced and subjected to the proceedings before the Revenue Divisional Officer or the appellate authority who have no jurisdiction, is of no consequence. Therefore, Ext.P13 order of the 3rd respondent Revenue Divisional Officer and Ext.P15 order of the 2nd respondent appellate authority are non est, for want of jurisdiction.

30. In the result, this writ petition is disposed of by setting aside Ext.P13 order dated 05.04.2019 of the 3rd respondent and Ext.P15 order dated 13.02.2020 of the 2nd respondent, for the aforesaid reasons.

No order as to costs.