

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

RP.No. 131 of 2015 (P)

TO REVIEW THE JUDGMENT DATED 28-10-2014 IN WP(C).NO.28144/2014.
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REVIEW PETITIONER(S):

**EASO P. ABRAHAM,
AGED 75 YEARS, S/O ABRAHAM P.E.,
PALLATHUCHIRA PUTHENPURACKAL HOUSE,
PUTHENCHANTHA P.O., VAKATHANAM,
KOTTAYAM- 686 538.**

**BY ADVS.SRI.LIJI.J.VADAKEDOM,
SMT.REXY ELIZABETH THOMAS.**

RESPONDENTS/WRIT PETITIONER AND RESPONDENTS IN WP(C):

- 1. P.A. ABRAHAM, AGED 60 YEARS,
S/O.ABRAHAM, PUTHENPURACKAL HOUSE,
ERAVUCHIRA KARA P.O., THOTTAKKAD VILLAGE,
CHANGANACHERRY TALUK, PIN-686 001.**
- 2. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
KOTTAYAM- 686 001.**
- 3. VILLAGE OFFICER,
THOTTAKKAD VILLAGE OFFICE,
CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT, PIN-686 001.**
- 4. TAHSILDAR, CHANGANACHERRY TALUK OFFICE,
CHANGANACHERRY, KOTTAYAM DISTRICT, PIN-686 001.**

**R1 BY ADV. SRI.P.I.GEORGEKUTTY.
R2 TO R4 BY SR. GOVT. PLEADER SRI.M.A. FAYAZ.**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- | | |
|-------------------|---|
| ANNEXURE 1 | COPY OF THE PLAINT IN O.S. NO.129/2014 BEFORE THE SUB COURT, KOTTAYAM. |
| ANNEXURE 2 | COPY OF THE INJUNCTION ORDER DATED 24/10/2014 IN I.A. N.2016/2014 IN O.S. NO.29/2014 BEFORE THE PRINCIPAL SUB COURT, KOTTAYAM. |
| ANNEXURE 3 | THE CERTIFIED COPY OF THE JUDGMENT DATED 28/10/2014 IN WP(C).NO. 28144/2014 BEFORE THIS HON'BLE COURT. |
| ANNEXURE 4 | COPY OF THE OBJECTION DATED 22/09/2014 FILED BY THE REVIEW PETITION. |
| ANNEXURE 5 | COPY OF THE REPRESENTATION DATED 08/01/2015 SUBMITTED BY THE REVIEW PETITIONER BEFORE THE 4TH RESPONDENT. |

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.A TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.
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Dated this the 4th day of February, 2015

ORDER

This review petition at the instance of the 3rd party. It is submitted that he is one of the legal heir of deceased Abraham, to whom the property belonged to. It is further submitted that, suppressing the material facts, the writ petitioner has approached this Court and obtained an order directing the Tahsildar to effect mutation based on a 'Will'. It is submitted by the review petitioner that execution of the Will is disputed and the subject matter is pending in civil Court as Annexure A1. The review petitioner points out the suit is pending before the Sub Court, Kottayam as OS No.129 of 2014. It is further submitted that Rule 27(1) of the Transfer of Registry Rules, if there are civil suit is pending, proceedings under the Transfer of Registry shall be deferred till the conclusion of the Civil suit.

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2. I am of the view that these are all matters to be considered by the Tahsildar. Certainly the Tahsildar shall also advert to the impact of civil suit in proceedings under Transfer of Registry Rules.

3. The Tahsildar, while conducting enquiry for transferring registry based an application filed by the writ petitioner relying on Will alleged to have been executed by the deceased, shall issue notices to the other legal heirs including review petitioner before taking a decision in the matter. It is made clear that this Court has not expressed anything on merit in respect of the title, right or interest of the writ petitioner or any other persons. It is open for the Tahsildar to take appropriate decision after issuing notice to the parties concerned.

The judgment stand reviewed to that extent.

Sd/-
A.MUHAMED MUSTAQUE,
JUDGE

das