

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

RP.No. 721 of 2014 (N) IN WP(C).16540/2014

AGAINST THE JUDGMENT IN WP(C) 16540/2014 of HIGH COURT OF KERALA
DATED 30-06-2014

PETITIONERS/IIIRD PARTIES:

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1. ANTONY JOSEPH AGED 62 YEARS
S/O OUSEPH, KOTTAKKAL HOUSE, OLD MARKET ROAD
IRINGALAKKUDA, THRISSUR, PIN - 680 121.
 2. JOEL ANTONY AGED 31 YEARS
S/O.ANTONY JOSEPH, KOTTAKKAL HOUSE, OLD MARKET ROAD
IRINGALAKKUDA, THRISSUR, PIN - 680 121
 3. MEERA ANTONY AGED 29 YEARS
S/O.ANTONY JOSEPH, KOTTAKKAL HOUSE, OLD MARKET ROAD
IRINGALAKKUDA, THRISSUR, PIN - 680 121
 4. P.C.GEORGE AGED 69 YEARS
S/O CHERIYAN, POOVATHUKARAN HOUSE, KANIMANGALAM
KOORKANCHERRY, THRISSUR, PIN - 680 021.
 5. STELLA GEORGE AGED 38 YEARS
D/O GEORGE, POOVATHUKARAN HOUSE, KANIMANGALAM
KOORKANCHERRY, THRISSUR, PIN - 680 021.
 6. SAFIJO GEORGE AGED 30 YEARS
S/O GEORGE, POOVATHUKARAN HOUSE, KANIMANGALAM
KOORKANCHERRY, THRISSUR, PIN - 680 021.

BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE

RESPONDENTS:

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1. VALSALA , AGED 47 YEARS
W/O KRISHNAN, THONIPPALLAM VEEDU
KOLAYKKAD PULLADIKALAM, MANJAPRA PO.
KANNAMBRA VILLAGE, ALATHOOR TALUK, PALAKKAD
PIN - 678 685.
 2. PRABHAKARAN C. CHAMI, AGED 54 YEARS
S/O.CHAMI, PUTHEN VEEETIL, NALLEPPILLI PO
NALLEPPILLI VILLAGE, CHITTUR TALUK, PALAKKAD
PIN - 678 553.
 3. INDIRA, AGED 50 YEARS
D/O.KRISHNAN, THONIPPALLAM VEEDU
KOLAYKKAD PULLADIKALAM, MANJAPRA PO, KANNAMBRA VILLAGE
ALATHOOR TALUK, PALAKKAD, PIN - 678 685.

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4. KRISHNAN, AGED 50 YEARS
S/O.MUTHU, THONIPPALLAM VEEDU, KOLAYKKAD PULLADIKALAM
MANJAPRA PO., KANNAMBERA VILLAGE, ALATHOOR TALUK
PALAKKAD, PIN - 678 685.

5. VASU, AGED 64 YEARS
S/O.CHAMI, NARICHIRAYIL, KUTTIPPALLAM PO.
NALLEPILLI THEKKUDESOM VILLAGE, CHITTER TALUK
PALAKKAD, PIN - 678 101.

6. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

7. THE DISTRICT COLLECTOR
PALAKKAD - 678 601.

8. THE SUB REGISTRAR
VADAKKANCHERRY, PALAKKAD - 678 601.

9. THE SUB REGISTRAR
ALATHUR, PALAKKAD - 678 603.

10. THE TAHASILDAR
ALATHUR, PALAKKAD - 678 601.

Addl.11. AJIKUMAR.S, AGED 45 YEARS
S/O.SURENDRAN, SURESH BHAVAN, ATTUKAL
CHUNIMANOR PO., NEDUMANGAD, THIRUVANANTHAPURAM

Addl.12. VIJAYAKUMAR.K , AGED 50 YEARS
S/O.KUTTANPILLAI, SREE VIGNESH VEEDU
MUSEUM BAINS COMPOUND, KAVIDIYAR PO.
KAVIDIYAR VILLAGE, THIRUVANANTHAPURAM.

Addl.13. D.SASIDHARAN NAIR, AGED 53 YEARS
S/O.MADHAVAN NAIR, VIJAYANIVAS, KARAMANA PO.
MANAKKAD, TRIVANDRUM.

Addl.14. VENUGOPAL, AGED 53 YEARS
S/O.VENKIDESWARAN, MANAKKAD PO., T.C.43/290(1) VEEDU
MUTTATHARA VILLAGE, TRIVANDRUM.

Addl.15. V.SOMASEKHARAN NAIR, AGED 57 YEARS
S/O.VELAYUDHAN PILLAI, NADUTHALA VEEDU
MANIKANDESWARAM, PERURKKADA, TRIVANDRUM.

ADDL.R11 TO R15 ARE IMPEADED AS PER ORDER DATED 15.01.2015 IN I.A
3/2015.

RADDL. BY ADV. SRI.P.MARTIN JOSE
RADDL. BY ADV. SRI.P.PRIJITH
RADDL. BY ADV. SRI.THOMAS P.KURUVILLA
R BY GOVERNMENT PLEADER
R BY SRI.SAIGI JACOB PALATY

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 28-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RKC

APPENDIX

PETITIONERS' ANNEXURES

A: COPY OF THE AGREEMENT DT.13.8.03

B: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1768/04 BEFORE THE SRO, VADAKKANCHERRY

C: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1769/04 BEFORE THE SRO, VADAKKANCHERRY

D: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1770/04 BEFORE THE SRO, VADAKKANCHERRY

E: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1772/04 BEFORE the SRO, VADAKKANCHERRY

F: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1773/04 BEFORE the SRO, VADAKKANCHERRY

G: COPY OF THE SALE DEED DT.30.4.04 REGISTERED AS DOCUMENT NO.1774/04 BEFORE the SRO, VADAKKANCHERRY

H: TRUE COPY OF THE NOTICE DT.10.7.04

I: COPY OF THE JUDGMENT DT.3.8.05 IN WPC NO.26196/04

J: COPY OF THE ORDER DT.16.10.09 ISSUED BY THE LAND REVENUE COMMISSIONER

K: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NOS.284/05 ON THE FILE OF THE MUNSIFFS COURT, ALATHUR

L: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NO.286/05 ON THE FILE OF THE MUNSIFF'S COURT, ALATHUR

M: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NO.287/05 ON THE FILE OF THE MUNSIFF'S COURT, ALATHUR

N: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NO.288/05 ON THE FILE OF THE MUNSIFF'S COURT, ALATHUR

O: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NO.289/05 ON THE FILE OF THE MUNSIFF'S COURT, ALATHUR

P: COPY OF THE JUDGMENT DT.23.8.07 IN O.S.NO.290/05 ON THE FILE OF THE MUNSIFF'S COURT, ALATHUR

Q: COPY OF THE JUDGMENT DT.30.7.10 IN A.S.NO.314/07 ON THE FILE OF THE DISTRICT COURT, PALAKKAD

R: COPY OF THE JUDGMENT DT.30.7.10 IN A.S.NO.329/07 ON THE FILE OF THE DISTRICT COURT, PALAKKAD

S: COPY OF THE JUDGMENT DT.30.7.10 IN A.S.NO.327/07 ON THE FILE OF THE DISTRICT COURT, PALAKKAD

T: COPY OF THE JUDGMENT DT.30.7.10 IN A.S.NO.326/07 ON THE FILE OF THE DISTRICT COURT, PALAKKAD

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U: COPY OF THE JUDGMENT DT.30.7.10 IN A.S.NO.330/07 ON THE FILE OF THE DISTRICT COURT, PALAKKAD

V: COPY OF THE CAVEAT O.P.NO.51 OF 2014 ON THE FILE OF THE MUNSIF COURT, ALATHUR

W: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2023/14 IN SRO VADAKKANCHERRY

X: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2024/14 IN SRO VADAKKANCHERRY

Y: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2025/14 IN SRO VADAKKANCHERRY

Z: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2026/14 IN SRO VADAKKANCHERRY

AA: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2027/14 IN SRO VADAKKANCHERRY

AB: COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO.2028/14 IN SRO VADAKKANCHERRY

AC: COPY OF THE COMMUNICATION DT.18.9.14 OF SRO VADAKKANCHERRY

AD: COPY OF COMMUNICATION DT.15.10.14 OF SRO VADAKKANCHERRY

RESPONDENTS ANNEXURES: NIL

RKC

TRUE COPY

PA TO JUDGE

A.M.SHAFFIQUE, J.

Review Petition No.721 of 2014

in

WP(C) No.16540 of 2014

Dated this the 28th day of January, 2015

ORDER

This review petition has been filed by third parties seeking leave of Court to review the judgment dated 30.6.2014 inter alia contending that pendency of civil litigation between the review petitioners and writ petitioners were not brought to the notice of this Court.

2. This Court in the impugned judgment directed the fourth respondent to register the sale deed of the petitioners without insisting for production of Record of Right as a pre-condition and on compliance with other procedures in accordance with law. The Revenue Authorities were also directed to consider the said sale deed as a valid document for maintenance of revenue records.

3. The review petitioners inter alia contended that the petitioners assigned the property involved in the writ petition in favour of the review petitioners and later cancelled the same by registered documents which according to the review petitioners was unilateral. Suits were filed before civil court for injunction restraining the review petitioners from taking possession of the land from the writ

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petitioners. The said suit has been decreed and a few of the suits are pending in second appeal as well. Under such circumstances, when their possession has been declared by the civil court, it was not proper on the part of the writ petitioners to have approached this Court without disclosing such particulars.

4. An impleading petition has been filed as I.A.No.03 of 2015 by which the petitioners therein had been impleaded as additional respondents in the review petition. According to them pursuant to the judgment of this Court they have purchased the property from the writ petitioners and therefore they are also interested in the subject matter.

5. Having regard to the aforesaid submission, it is clear that the petitioners did not mention about the pending litigation with reference to the property which they intended to sell. The learned counsel for the writ petitioners would submit that there was no issue regarding title. But the fact remains that when civil litigation was pending with reference to the subject matter of the property which was to be sold and there was restriction imposed by the Sub Registrar that the sale deed will not be executed in the absence of entries in the Record of Rights, it was proper on the part of the writ petitioners, to have made mention about the pending civil suits and also they should have made

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the review petitioners party to the writ petition. Under such circumstances this is a fit case in which there is concealment of material particulars and therefore the judgment is liable to be recalled.

6. The learned Senior counsel appearing for the impleading applicants submits that the impleading applicants are bonafide purchasers for valuable consideration. It is not in dispute that as far as their rights are concerned, it is always subject to the lis pending before the civil court. Their rights have to be adjudicated in the appropriate forum and I am not expressing any opinion about their involvement in this matter.

Having regard to the aforesaid finding, the judgment dated 30.6.2014 is recalled and the review petition is allowed. It is made clear that, the documents executed pursuant to the directions of this Court will be subject to the lis pending between the parties.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

rkc.