

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYASHTA, 1937

WP(C).No.1875 of 2015 (H)

PETITIONER:

**EBENZAR T.P.,S/O.PAILY,AGED 59 YEARS,THITTAYIL HOUSE,
NEAR HOSPITAL,PONNARIMANGALAM,MULAVUKAD P.O.,
MULAVUKAD VILLAGE,KANAYANOOR TALUK,
ERNAKULAM DISTRICT,PIN - 682 504.**

BY ADV. SRI.T.K.SHAJAHAN

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,PIN - 695 001.**
- 2. TAHASILDAR,KANAYANUR TALUK,
ERNAKULAM DISTRICT,KOCHI - 682 035.**
- 3. VILLAGE OFFICER,MULAVUKAD VILLAGE,
MULAVUKAD P.O.,ERNAKULAM DISTRICT,
PIN - 682 504.**

***ADDITIONAL 4TH RESPONDENT IMPEADED**

**ADDL.R4:SMT.AMMINI PAILY,THITTAYIL HOUSE,
PONNARIMANGALAM,MULAVUKAD P.O.
ERNAKULAM DISTRICT,PIN - 682 504.**

***ADDL.R4 IMPEADED AS PER ORDER DATED 25.02.2015 IN IA 2550/15.**

R1 TO R3 BY GOVT. PLEADER SRI.MANOJ P.KUNJACHAN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No.1875 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:TRUE COPY OF THE PATTA NO.1871/1976 IN O.A.NO.915/75
DATED 08.12.1976 ISSUED FROM LAND TRIBUNAL,ERNAKULAM.**

**EXHIBIT P2:TRUE COPY OF REFER REPORT IN CRIME NO.162/07 FILED BY SI OF
POLICE, MULAVUKAD BEFORE THE JUDICIAL 1ST CLASS
MAGISTRATE COURT,ERNAKULAM.**

**EXHIBIT P3:TRUE COPY OF THE APPLICATION DATED 06.01.2015 SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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W.P.(C) No.1875 of 2015 - H

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Dated this the 19th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner's application at Ext.P3 for mutation of the petitioner's mother's property is not being effected. The petitioner is the son of one Ammini, who is said to be missing for the last many years, specifically from 2007. Ext.P2 is a notice issued by the Sub Inspector of Police, under Sections 157(2) and 173(1)(b) of the Criminal Procedure Code to the informant that the man missing case registered as Crime No.162/2007 has been closed as undetectable.

2. The said case is that registered when the petitioner's mother went missing in 2007. The petitioner claims that specifically going by the provisions of Rule 27(ii) of Transfer

of Registry Rules, 1966 the only responsibility of the Village Officer is to conduct a proper enquiry and carry out the Transfer of Registry as sought for by the petitioner. The learned Counsel also relies on two decisions of this Court reported in W.P.(C) Nos. 7656 of 2015 dated 27.03.2015 and 29357 of 2014, dated 12.11.2014, which according to the Counsel are in identical circumstances.

3. The learned Government Pleader however contends that herein, the property does not belong to the missing person alone. The property belongs to the father and mother of the petitioner and the former is no more and the mother is missing for the last more than 7 years. Even if an enquiry is conducted under Rule 27(ii) of the Rules, that would not facilitate the mutation as sought for by the petitioner. Since, the other co-owner's legal heirship certificate will have to be produced by the legal heirs. Further more it is submitted that

the petitioner is not the only son of the missing person and there are other legal heirs.

4. In such circumstance, the petitioner has to make a joint application along with other legal heirs and produce the legal heirship certificate of the deceased father also and only then the enquiry as contemplated under Rule 27(ii) of the Rules can be conducted. The petitioner would have his remedies left open to make such an application along with the other legal heirs.

The writ petition would stand closed. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //

P.A to Judge.