

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 5711 of 2014 (L)

PETITIONER:

RAJESH M.M, AGED 47, S/O/M.A.MANI,
MANAKKATTUMPADI HOUSE, CHITTISSERY P.O,
PALIEKKARA, THRISSUR - 680 301. (DIED)

*ADDL.P2 TO P4 IMPLEADED

2. VANISHA, AGED 47, W/O.LATE RAJESH.M.M.,
MANAKKATTUMPADI HOUSE, CHITTISSERY.P.O.,
PALIEKKARA, THRISSUR -680 301.
3. RUDRASH.M.R. (MINOR), AGED 12 YEARS,
S/O.LATE RAJESH.M.M., REP.BY MOTHER VANISHA,
AGED 47, W/O.LATE RAJESH.M.M.,
MANAKKATTUMPADI HOUSE, CHITTISSERY.P.O.,
PALIEKKARA, THRISSUR -680 301.
4. HRISHIDA.M.R. (MINOR), AGED 7 YEARS,
REP.BY MOTHER VANISHA, AGED 47,
W/O.LATE RAJESH.M.M., MANAKKATTUMPADI HOUSE,
CHITTISSERY.P.O., PALIEKKARA, THRISSUR -680 301

ADDL. P2 TO P4 ARE IMPLEADED AS PER ORDER
DATED 01/08/2014 IN IA 10151/2014.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

1. THE STATE OF KERALA,
REP.BY THE SECRETARY TO THE GOVERNMENT,
REGISTRATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR, NELLAYI,
THRISSUR - 680 001.

BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1 : A TRUE COPY OF THE COMMUNICATION RECEIVED BY THE BROTHER OF THE PETITIONER A COPY OF WHICH IS SERVED ON THE PETITIONER DATED 3/2/2014 BY THE SECOND RESPONDENT.

EXHIBIT P2 : A TRUE COPY OF THE PARTITION DEED SUBMITTED FOR REGISTRATION BY THE PETITIONER DATED 31/1/2014.

EXHIBIT P3 : A TRUE COPY OF THE SKETCH OF THE PROPERTY PREPARED BY THE VILLAGE OFFICER, NENMANIKARA DATED NIL.

EXHIBIT P4 : A TRUE COPY OF THE TAX RECEIPT ISSUED DATED 21/11/2013 BY THE NENMANIKARA VILLAGE OFFICE.

EXHIBIT P5 : A TRUE COPY OF THE WILL OF THE FATHER OF THE PETITIONER DATED 18/1/1993.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P(C).No. 5711 of 2014

Dated this the 2nd November, 2015

JUDGMENT

This Writ Petition is filed challenging Exhibit P1 communication of the Sub Registrar returning the partition deed presented for registration.

2. The property, which is the subject matter of partition deed, belongs to the father of the original writ petitioner, namely, late M.A.Mani. The male children of late M.A.Mani entered into partition deed based on the will executed by late M.A.Mani. According to the petitioners, as per the will, male children are only entitled to the property and the female children are entitled for the amount referred to in the will.

3. As seen from Exhibit P1, the registration was denied alleging competency of the writ petitioner. There cannot be any dispute that the original writ petitioner is the competent person, since he is one of the legal heirs of his father. Whether direction in the will has been worked

out or not is not a matter for consideration for the Sub Registrar. In the meanwhile, the original parties are died.

4. In that view of the matter, this Court is of the view that Exhibit P1 is unsustainable. That is beyond the scope of the Sub Registrar to return the document denying registration. In the above circumstances, the Writ Petition is disposed of as follows:

Exhibit P1 is set aside. If the petitioners re-present the partition deed with modification and if it conforms with the Registration Act and Rules, the same shall be registered without any delay.

**A.MUHAMED MUSTAQUE
JUDGE**

vgs3/11/15