

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 7099 of 2015 (J)

PETITIONER:

**VALIYAPEEDIKAKKAL ANEES MUHAMMED,
S/O.ABDULLAKKOYA, WANDOOD,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.V.RAJENDRAN
SRI.M.S.MOHAMMED ANSARY**

RESPONDENT(S):

- 1. THE DISTRICT REGISTRAR (GENERAL),
MALAPPURAM-676 505.**
- 2. THE SUB REGISTRAR, WANDOOD,
WANDOOD-679 328, MALAPPURAM DISTRICT.**
- 3. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
REGISTRATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF THE DOCUMENT NO.1229/2005 OF SRO WANDOOR
DATED 01.03.2005.
- EXT.P2: TRUE COPY OF THE CERTIFICATE DATED 25.08.2009 ISSUED BY THE
VILLAGE OFFICER WANDOOR TO THE PETITIONER.
- EXT.P3: TRUE COPY OF THE RECTIFICATION DEED DOCUMENT NO.P.8/2009.
- EXT.P4: TRUE COPY OF THE ORDER DATED 08.12.2009 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER.
- EXT.P5: TRUE COPY OF THE JUDGMENT DATED 18.12.2014 OF THE DISTRICT
COURT MANJERI, IN CMA.NO.3/2010.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J

W.P(C) No. 7099 of 2015

Dated this the 17th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with Exts.P4 and P5 orders. Though proceeding were taken before the District Court, the learned counsel appearing for the petitioner submits that the same is not maintainable and he would not press the challenge. The fact to be noticed is that the petitioner purchased land as per Ext.P1 deed and registered the same. Subsequently noticing a discrepancy in the Survey Number and the exact extent of property comprised in the Survey No. noticed in Ext.P1 deed, a rectification deed was executed. The same, when presented for registration was impounded.

2. The Registrar by Ext.P4 found that the variance in survey numbers and the different extent of properties in the other survey numbers being included in a deed cannot be one which

could be considered as a rectification. Since rights are created on that extent of property in the other survey number, the petitioner would have to pay the stamp duty for the entire extent as per the deed; was the finding. The primary fallacy in the said finding is that if at all stamp duty could have been demanded only for that extent of property in the survey number now sought to be introduced to the description in the schedule to Ext.P1. However, even that cannot be on the facts of the case.

3. The rectification was insofar as Ext.P1 deed having described the entire properties purchased in two different schedules; as item Nos. 1 and 2. Both the items declared the entire extent as comprised in Re-survey No. 65/1pt Block No.79 of Wandoor Village of Nilambur Taluk. Subsequently, it was revealed that the entire properties are not so comprised in Survey No.65/1 and a portion of the property was comprised in 65/3. The petitioner approached the Village Officer, who issued Ext.P2

certificate. Ext.P2 would indicate that the property covered under the 1st item of the schedule to Ext.P1, is an extent of 0.7338 hectors in Re-Survey No.65/1 and 0.4605 hectors in Re-Survey No.65/3pt. As for the 2nd item in the schedule to Ext.P1 0.2936 hectors lies in Re-Survey No.65/1 and 0.1134 hectors is comprised in Re-Survey No.65/3.

4. This does not change the extent of the total property covered by Ext.P1 at all. The boundaries too remain the same. In such circumstance, there is no new right created under the document. The rectification is only one to correct the bona fide mistake. No further stamp duty could be demanded on the same. Hence Ext.P4 would stand set aside. The impounded document will be handed back to the petitioner within one week from the date of production of the certified copy of this judgment. The petitioner shall present the same for registration and registration shall be carried out verifying the extent of the properties as

existing in Ext.P1 deed and the same shall be carried within a period of two weeks therefrom, as a rectification deed.

Writ petition is allowed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge