

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

W.P(C).No. 11353 of 2012 (T)

PETITIONER :

DEVIKA RANI,
AGED 48 YEARS,
W/O.P.K.SUBASH,
CHITRALAYAM,
KACHERI ROAD,
PUNALUR,
KOLLAM.

BY ADV. SRI.PRAVEEN K. JOY

RESPONDENTS :

1. THE DISTRICT COLLECTOR,
KOLLAM-691 001.
2. THE REVENUE DIVISIONAL OFFICER,
KOLLAM-691 001.
3. THE ADDITIONAL TAHSILDAR,
PATHANAPURAM,
KOLLAM-691 001.
4. THE VILLAGE OFFICER,
PUNALUR-691 004.

R1-R4 BY ADV. GOVERNMENT PLEADER : SRI.REJI JOSEPH

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

bpr

W.P(C) .No. 11353 of 2012 (T)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 TRUE PHOTOCOPY OF THE DEED NO.2822/07 OF THE SRO.
PUNALUR.

EXT.P2 TRUE COPY OF THE ORDER DATED 23/3/2009 OF THE
3RD RESPONDENT.

EXT.P3 TRUE COPY OF THE JUDGEMENT DATED 28/1/2009 IN
W.P. (C)NO.2863/2009 OF THIS HONOURABLE COURT.

EXT.P4 TRUE PHOTOCOPY OF THE ORDER DATED 03/04/2010 OF
THE 2ND RESPONDENT.

EXT.P5 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS

EXT.R3(a) A TRUE COPY OF THE ORDER NO.187/2009 DATED
10.05.2010.

EXT.R3(b) TRUE COPY OF THE ABSTRACT OF THE THANDAPPER
REGISTER (T.P.NO.3311).

EXT.R3(c) TRUE COPY OF THE TAX REMITTANCE PORTION
(T.P.NO.3311).

//TRUE COPY//

P.A. TO JUDGE

bpr

K.HARILAL, J.

W.P(C).No.11353 of 2012

Dated this the 11th day of November, 2015

JUDGMENT

The petitioner, herein is aggrieved by Ext.P5 order passed by the 1st respondent in exercise of revisional jurisdiction under rule 18(4) of the Transfer of Registry Rules, 1966.

2. According to the petitioner 1 acre and 56 cents of property comprised in different survey numbers of the Punalur Village, originally belongs to the petitioner's father Subramanian Pillai Ramachandran Pillai and on his death, the said property devolved upon his wife and three other children including the petitioner. Subsequently, his mother, Chempakavalli executed a settlement deed conferring her right over the said property infavour of the petitioner by Ext.P1 settlement deed. Thus, the entire property devolved upon her by Ext.P1 and she is entitled to get transferred the registry of survey number with

respect to the entire extent of 1.56 Acre, in accordance with Transfer of Registry Rules,1966. Though, she had filed an application under the said rule, the 3rd respondent rejected the same, by Ext.P2. Feeling aggrieved, she preferred Writ Petition No.2863/2009 before this Court and pursuant to direction of this Court, the 2nd respondent considered the appeal petition and passed Ext.P4 order affirming the findings of the 3rd respondent rejecting the claim of the petitioner. Thereafter, the petitioner filed a revision petition before the 1st respondent challenging Ext.P4 order and after hearing the petitioner, the 1st respondent passed Ext.P5 order dismissing the revision. Thus, the concurrent findings of the respondents 1 to 3; whereby the claim for transfer of registry stands rejected, are challenged, under Article 226 of the Constitution of India.

3. Heard the learned counsel for the petitioner and the learned Government Pleader. The learned

counsel for the petitioner advanced arguments challenging the concurrent findings of respondents 1 to 3; by which the claim for transfer of registry of survey number stands rejected. So also the learned counsel for the petitioner challenged the jurisdiction of the 1st respondent in passing Ext.P4 order.

4. Per contra, the learned Government Pleader advanced arguments to justify the findings whereby the competent authorities under Transfer of Registry Rules rejected the claim of the petitioner.

5. The short question that arises for consideration is whether there is any illegality or irregularity in the reasonings or in the procedure by which the authorities below passed the impugned orders under challenge. It is the case of the petitioner that the property having an extent of 1.56 acres belonged to her father by name Subramania Pillai Ramachandran Pillai and after the death of father, the property devolved upon the three

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children including the petitioner and the mother of the petitioner. The claim for Transfer of Registry is made on the basis of Ext.P1 settlement deed executed by the mother of the petitioner only. Going by Ext.P1 settlement deed, it is seen that the deceased Subramania Pillai Ramachandran Pillai had three children including the petitioner and his wife Chempalavalli was alive at the time of his death. Indisputably, the property devolved upon all the legal heirs of deceased Subramanian Pillai Ramachandran Pillai. If that be so, each legal heir is entitled to get one fourth right over the entire extent of property. By Ext.P1 settlement deed, the mother assigned her $\frac{1}{4}^{\text{th}}$ right in favour of the petitioner and thereby the petitioner got $\frac{1}{2}^{\text{th}}$ right over the entire property. The remaining half right over the property stands vested on the other two children of deceased Subramanian Pillai Ramachandran Pillai by name Renuka Rani and Raj Kumar. The petitioner has no right over the

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entire extent of property as claimed by her in the application. This being the devolution of the property, the petitioner is not entitled to get transferred the registry of survey number of the entire property, in her name, under the Transfer of Registry Rules.

6. The respondents 1 to 3 are competent authorities under Transfer of Registry Rules, 1966 and there is no procedural irregularity in the proceedings. It is discernible that the impugned orders were passed, after affording an opportunity of being heard, to all the parties and after considering the documents produced by the petitioner. There is no illegality in the findings that the petitioner is entitled to get transferred the registry of survey number, in her favour, with respect to half right over the property only. Ext.P5 order passed by the 1st respondent stands affirmed as there is no illegality or impropriety in the findings whereby the said order has been passed. This writ petition is devoid of merits.

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7. Going by rule 18(4) of the Transfer of Registry Rules, 1966, indisputably the 1st respondent, District Collector is vested with revisional jurisdiction and the challenge against jurisdiction of the 1st respondent is also unsustainable and liable to be rejected at the threshold and I do so.

This writ petition is dismissed accordingly.

Sd/-
K.HARILAL
JUDGE

rsr