

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 7656 of 2015 (F)

PETITIONER(S):

**ELIZABETH, AGED 45 YEARS,
W/O. SEBASTIAN, VADASSERY HOUSE, MULAVUKAD P.O.,
MULAVUKAD VILLAGE, KANAYANNOOR TALUK,
ERNAKULAM DISTRICT, PIN-682 504.**

BY ADV. SRI.T.K.SHAJAHAN

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. TAHASILDAR,
KANAYANNUR TALUK, ERNAKULAM DISTRICT, KOCHI-682 011.**
- 3. VILLAGE OFFICER,
MULAVUKAD VILLAGE, MULAVUKAD.P.O,
ERNAKULAM DISTRICT, PIN-682 504.**
- 4. SEBASTIAN, AGED 48 YEARS,
S/O.ANTONY, VADASSERY HOUSE, PONNARIMANGALAM P.O.,
MULAVUKAD VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT, PIN-682 504.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7656 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 TRUE COPY OF THE SETTLEMENT DEED NO:5310 OF 2003 OF SRO ERNAKULAM EXECUTED BY SRI.ANTONY IN FAVOUR OF HIS SON SEBASTIAN.

EXT.P2 TRUE COPY OF THE SALE DEED NO.3614 OF 1995 OF SRO ERNAKULAM EXECUTED BY SRI.VICTOR N MANUEL IN FAVOUR OF SRI.SEBASTIAN.

EXT.P3 TRUE COPY OF THE F.I.R IN CRIME NO.152 OF 2006 DT:6-10-2006 OF MULAVUKAD POLICE STATION.

EXT.P4 TRUE COPY OF THE REFER REPORT IN CRIME NO.152/06 FILED BY SI OF POLICE, MULAVUKAD BEFORE THE JUDICIAL IST CLASS MAGISTRATE COURT, ERNAKULAM.

EXT.P5 TRUE COPY OF THE NEWSPAPER SHOWING THE NEWS REGARDING THE MISSION OF THE SRI.SEBASTIAN.

EXT.P6 TRUE COPY OF THE APPLICATION DT.9-2-2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.
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W.P.(C) No.7656 of 2015
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Dated this the 27th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i) Issue a writ of mandamus or other appropriate writs or direction to the 3rd respondent to consider Exhibit P6 application and act according to Rule 27(ii) of Transfer of Registry Rules, 1966 and to transfer the mutation of property in the village in the name of the legal heirs of Sebastian.
- ii) Pass such other writ, order or direction as prayed for by the petitioner in the course which shall be just and proper.

2. The case of the petitioner is that the property having an extent of 8.5 cents in Re-Survey No.29/3 of Mulavukad village covered by Exts.P1 and P2 stands in the name of the husband of the petitioner, who is missing from 02.10.2006 onwards. All the efforts made by the petitioner and the members of the family and also the police to find him out had only turned to be futile. In the said circumstance, the petitioner and the two children born out of the wedlock are to be considered as the legal heirs so as to have the transfer of registry in respect of the above property to be

effected in their name under the relevant provisions of the Transfer of Registry Rules. The petitioner filed Ext.P6 application before the 3rd respondent on 09.02.2015 for effecting mutation in the name of the petitioner and her children. But, the same was returned by the 3rd respondent asking the petitioner to produce court order. This made the petitioner to approach this Court by filing this writ petition.

3. Heard the learned Government Pleader as well.

4. On going through the materials on record, it is seen that a man missing case was registered by the police as Crime No.152/2006 of Mulavukad Police Station as early as on 06.10.2006. Ext.P3 is the copy of the F.I.R. Ext.P4 proceeding of the Sub Inspector of Police reveals that the case is left as 'undetectable' one. A news item appeared in the 'Deepika' Daily dated 27.10.2010, as to the missing of the husband of the petitioner.

5. After hearing both the sides, this Court finds that the petitioner is entitled to have the reliefs sought for. As such, there will be a direction to the 3rd respondent to re-consider

Ext.P6 application preferred by the petitioner to effect mutation in respect of the property covered by Ext.P2, which stands in the name of the husband of the petitioner (by name Sebastian) and effect the transfer of registry in the name of the petitioner and her two children, enabling them to satisfy the tax in respect of the said property under the Kerala Land Tax Act as well. It is made clear that, if any conveyance is made by the legal heirs in relation to the property as above, it shall be for them to obtain appropriate authority in this regard from the appropriate court/forum.

Writ petition disposed of.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

vdv