

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9590 of 2015 (W)

PETITIONER :

**SALMATH, AGED 32 YEARS
D/O.BASHEER, 2/431, CHAKKALAKKAL HOUSE
ERIYAD GRAMA PANCHAYATH, AZHEEKODE
KODUNGALLUR - 680 660.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT :

**THE SUB REGISTRAR,
KODUNGALLUR SUB REGISTRY, KODUNGALLUR
THRISSUR DISTRICT-680 660.**

BY SR. GOVT. PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 9590 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1. TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 06.06.2011
ISSUED BY ALUVA MUSLIM JAMAATH.**
- EXHIBIT P2. TRUE COPY OF THE RATION CARD.**
- EXHIBIT P3. TRUE COPY OF THE PATTA NO. C3-17/88 DATED 28.12.1988 ISSUED BY
THE TAHSILDAR, KODUNGALLUR.**
- EXHIBIT P4. TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE
SECRETARY, ERIYAD GRAMA PANCHAYATH.**
- EXHIBIT P5. TRUE COPY OF THE REGISTERED AGREEMENT DATED 22.03.2010.**
- EXHIBIT P6. TRUE COPY OF THE JUDGMENT 17.12.2014 IN WP(C)NO.34122/2014 OF
THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.9590 OF 2015
.....

Dated this the 25th March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

i) issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent to accept the document of transfer of 4 cents of land covered by Exhibit P3 document in favour of the petitioner and her children if presented and if it is otherwise in order and to register the sale deed executed in favour of the petitioner and her children.

ii) declare that the restriction of alienation imposed in Exhibit P5 agreement is illegal, arbitrary and unsustainable in law; and

iii) to issue such other directions or orders as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. The petitioner is aggrieved of refusal on the part of the Registering authority to register the property covered by Ext.P3 in favour of the petitioner and her children stating that by virtue of Ext.P5 agreement, there is restriction for alienation/creation

of encumbrance.

3. Heard the learned Government Pleader as well

4. The learned Counsel for the petitioner relies upon Ext.P6 judgment delivered under similar circumstances and seeks for similar relief. Considering the facts and circumstances this writ petition is also disposed of in terms of Ext.P6 judgment. For convenience of reference, relevant paragraph, i.e. para '2' of the said judgment is extracted below:

"2. The rigor of statutory restriction under the Land Assignment Act would not apply in this transfer. Providing any aid under the Social Welfare Scheme does not confer a right on the State to create a clog on the title of the owner of the property. The transfer was effected in favour of the petitioner in terms of Transfer of Property Act. Any stipulation therefore, restraining the transfer is void in terms of Section 10 of the Transfer of Property Act. If the petitioner violates any contract with the Government, it is for the Government to take action against the petitioner. Since there is no statutory provision to aid the Government to restrain alienation, any prohibition against the

alienation is unsustainable.”

5. In the said circumstance, there will be a direction to the respondent/Sub Registrar to accept the document presented by the petitioner for transfer, if it is otherwise in order and to register the same in accordance with the relevant provisions of the Registration Act/Rules.

The writ petition is disposed of. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the respondent/Sub Registrar for further steps.

**P.R.RAMACHANDRA MENON
JUDGE**

/k