

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 9691 of 2015 (J)

PETITIONER(S):

**V.SAJINA, AGED 62 YEARS
W/O.CHERUKATTIL NISAR, PATHAIKKARA AMSOM DESOM
PERINTHALMANNA TALUK
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER SAINABA
W/O.MUHAMMED, AGED 62 YEARS, ABHILASH, P.O PERINTHALMANNA
MALAPPURAM DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S):

- 1. THE SUB REGISTRAR
SUB REGISTRAR OFFICE, PERINTHALMANNA
MALAPPURAM DISTRICT. 679 322.**
- 2. THE REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE, PERINTHALMANNA
MALAPPURAM DISTRICT. 679 322.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 9691 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE RELEVANT PAGE OF THE DATABANK.

EXHIBIT P2. COPY OF THE ASSIGNMENT DEEDS DATED 02.07.14.

EXHIBIT P3. COPY OF THE ASSIGNMENT DEEDS DATED 02.07.14.

EXHIBIT P4. COPY OF THE ORDER NO.4421/13 DATED NIL.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 9691 of 2015

Dated this the 31st day of March, 2015

J U D G M E N T

The petitioner is the owner of the property having an extent of nearly 77 cents comprised in Sy. No.38/3A of Perinthalmanna Village. It is stated that, the property is almost converted. 20 cents of the property has been shown as converted land as per Ext.P1 Data Bank Register itself. The grievance of the petitioner is mainly with regard to the refusal on the part of the Registering authority to register the conveyance in terms of the Registration Act/Rules. The petitioner has been given to understand that such a stand is taken on the basis of the instructions issued from the office of the 2nd respondent in respect of properties coming within the purview of Act, 28 of 2008 where some unauthorised filling up exercise has allegedly been effected by the parties concerned. It is in the said circumstances, that the said instruction has been given, styled as a 'stop memo'.

2. The case of the petitioner is that, there is absolutely no power, jurisdiction or competence vested with the 2nd respondent to have issued Ext.P4, nor the 1st respondent is bound to give

effect to the same. It is also pointed out that, the registration of conveyance has to be effected in terms of the relevant provisions of the Registration Act/Rules. It is in the said circumstance, that immediate interference is sought for, so as to cause the originals of Exts.P2 and P3 to be registered.

3. Heard the learned Government Pleader as well.

4. After hearing both the sides, this Court finds that there is considerable force in the contention raised from the part of the petitioner. Even if the property is a 'paddy land' or 'wet and' as defined under the relevant provisions of the Act 28 of 2008, conveyance of the same cannot be stalled with reference to unauthorised filling, if at all any. It is always open for the competent authority under the said Act to take appropriate steps to order restoration, if there is any unauthorised filling or to proceed with further steps, if at all any offence involved.

5. In the above circumstance, there will be a direction to the 1st respondent/Sub Registrar to cause Registration of Exts.P2 and P3 on satisfaction of the legal requirements in accordance with the provisions of Registration Act/Rules, as and when the originals are produced and if the said documents are otherwise in

order. It is made clear that, since there is no lapse on the part of the petitioner and the non-registration of the documents was with reference to Ext.P4 (which is not seen dated) the bar under Section 23 of the Registration Act will not come into play.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn