

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

W.P.(C).No.12686 of 2015 (I)

PETITIONER(S):-

1. CHERTHALA GOVERNMENT SERVANTS CO-OPERATIVE BANK (LTD.) NO. 235, CHERTHALA, REPRESENTED BY ITS PRESIDENT V. SHEBU, MALICHIRA NIKARTHIL, CHERTHALA P.O.
2. THE ALAPPUZHA DISTRICT CO-OPERATIVE HOSPITAL SOCIETY LIMITED NO. A 805, PATTANAKKAD P.O., CHERTHALA, ALAPPUZHA DISTRICT, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.P.C.SASIDHARAN.

RESPONDENT(S):-

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, CO-OPERATIVE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT REGISTRAR (GENERAL), OFFICE OF THE DISTRICT REGISTRAR, ALAPPUZHA - 688 001.
3. THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR, PATTANAKKAD, ALAPPUZHA - 688 531.

R1 TO R3 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.12686 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE ORDER OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES, ALAPPUZHA.

EXHIBIT-P2- TRUE COPY OF THE ORDER DATED 26/02/2015.

EXHIBIT-P3- TRUE COPY OF THE SALE DEED PRESENTED BEFORE THE
3RD RESPONDENT FOR REGISTRATION.

EXHIBIT-P4- TRUE COPY OF THE RECEIPT OF ACKNOWLEDGMENT OF RECEIPT
OF THE DOCUMENT SUBMITTED BEFORE REGISTRATION.

EXHIBIT-P5- TRUE COPY OF THE JUDGMENT IN W.P(C) 20164/2010.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.12686 of 2015-I

Dated this the 09th day of June, 2015

JUDGMENT

The petitioners before this Court in the above writ petition are two Societies, one of which intends to purchase a property from the other. The 1st petitioner has purchased a property by Exhibit P3 document, wherein the vendor is the 2nd petitioner and the purchaser is the 1st petitioner.

2. The issue with respect to the exemption for Co-operative Societies under the Kerala Stamp Act, 1959 was considered elaborately by a Full Bench of this Court in ***Sub Registrar v. Kerala State Co-op. Consumer Federation [2015 (1) KHC 17 (FB)]***, in which it was stated so:

“15. Reading of this provision shows that under the Kerala Act, the benefit of remission can be allowed in respect of any class of societies in respect of an instrument executed by or on behalf of the society or by an officer or member thereof. Such instrument should be relating to the business of such society. Further, the last part of this Section also provides that remission is

available only in cases where but for such remission, the society, the officer, or the member who has executed the instrument, as the case may be, would be liable to pay such stamp duty”.

3. Herein, admittedly both the vendor and the purchaser are Societies. The liability to pay stamp duty under the Kerala Stamp Act is on the purchaser, which is the 1st petitioner-Society. Hence, going by the binding precedent of this Court, there is an exemption available to the 1st petitioner-Society. In such circumstance, the document being one executed on behalf of the society and the purchaser being a society, who is otherwise liable to pay stamp duty, should be granted remission and, therefore, it is directed that the 3rd respondent shall register the sale deed, Exhibit P3.

The writ petition is allowed.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]