

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No. 17169 of 2015 (U)

PETITIONER:

**SURESH P.A., S/O.VELAPPAN,
PULIYAMPILLY PUTHENPURAYIL HOUSE,
AMBALAMEDU POST, KUZHIKKAD KARA,
ERNAKULAM.**

**BY ADVS.SRI.P.I.GEORGEKUTTY
SRI.ARUN PAUL JACOB
SRI.P.N.ANOOP (PAREKKADAN)**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ERNAKULAM, PIN - 682 014.**
- 2. VILLAGE OFFICER,
PUTHENCROUZ VILLAGE,
ERNAKULAM DISTRICT, PIN - 682 035.**
- 3. TAHASILDAR,
KUNNATHUNAD TALUK OFFICE,
PERUMBAVOOR, ERNAKULAM - 683 542.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 17169 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE SALE DEED NO.3046 OF 1974 OF THE SRO,
AIKKARANADU.
- EXHIBIT P2. TRUE COPY OF THE DEATH CERTIFICATE OF RAJAMMA ISSUED FROM
THE OFFICE OF THE REGISTRAR OF BIRTHS AND DEATHS,
CORPORATION OF COCHIN, DATED 19.0.1988.
- EXHIBIT P3. TRUE COPY OF THE TAX PEYMENT RECEIPT IN TANDAPER ACCOUNT
NO.7135 DATED 13.05.2015.
- EXHIBIT P4. TRUE COPY OF SCHOOL CERTIFICATE DATED 29.03.1989.
- EXHIBIT P5. TRUE COPY OF THE POSSESSION CERTIFICATE AND LOCATION
SKETCH ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P6. THE TRUE COPY OF THE COMMUNICATION GIVEN BY THE
2ND RESPONDENT TO THE PETITIONER DATED 19.05.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J

W.P(C) No. 17169 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that mutation is not being effected, despite an application having been made. In fact, the application submitted was rejected by Ext.P6. The petitioner had made the application contending that the petitioner is the only son of one deceased Rajamma in whose name the property remained in the records . Rejection as per Ext.P6 on the application under the Transfer of Registry Rules, 1966, was for the reason that there is nothing mentioned about the father of the petitioner. Hence, by Ext.P6, the Village Officer rejected the application directing the petitioner to get a Court Order that the father of the petitioner does not have a right over the property.

2. The petitioner's contention is that the petitioner's father has been missing for more than 40 years. The learned Government Pleader submits that nothing is produced to show

that there is a man missing case registered and that the petitioner's father has been missing for more than 7 years. This Court is not convinced that such a stand can be taken by the Government. The petitioner is a 47 year old man and the contention is that the father has been missing for more than 40 years.

3. In any event, the Transfer of Registry Rules by Section 27 requires an enquiry to be conducted by the Tahsildar in the case of succession by heirship [27(i)] and succession in case of disappearance of registered holder [27(ii)]. In this case, the disappearance is of the person who would have normally succeeded to the deceased person's assets. The enquiry contemplated by the Tahsildar is one of examining the residents of the locality and the persons residing in the neighborhood so as to ascertain whether the facts stated by the petitioner is true. There is also no dispute raised as to the succession of the

petitioner to the assets of his mother.

4. In such circumstance, Ext.P6 would stand set aside. The application filed before the 2nd respondent would be transmitted to the 3rd respondent. The petitioner shall appear before the 3rd respondent on 8.7.2015. The 3rd respondent shall get a report from the Village Officer as to an enquiry made with the residents of the locality, on the facts stated in the application, regarding the petitioner being the only legal heir of the deceased Rajamma and the father of the petitioner-Velappan being missing for the last more than seven years. The Tahsildar shall if need be, examine any of the persons pointed out by the petitioner or by the Village Officer. On enquiry if it is found that the petitioner is the only legal heir and that the father of the petitioner is missing for more than 7 years, then, necessarily mutation has to be effected. It is also made clear that the notice shall be issued in the notice board of the office of

the Tahsildar and the Village Officer before enquiry is initiated, so as to facilitate any interested person to appear and raise any objection, if any.

Writ petition is allowed.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge