

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 17226 of 2015 (C)

PETITIONER(S) :

1. A.G.MADHAVAN, AGED 39 YEARS,
S/O.LATE GOPINATHAN, MANAGING DIRECTOR,
NILA METALS (P) LTD., HAVING ITS REGISTERED OFFICE AT 513/49,
STADIUM BY PASS ROAD, AKSHAYA FOUNDATION,
NEAR TRINITY EYE CENTRE, PALAKKAD - 678 001.
2. V.C.PRADEEP, AGED 58 YEARS,
S/O.I.N.PRABHAVATI, RESIDING AT PAZHAYANNUR RUBBER ESTATE,
THALAPPILLY TALUK, PAZHAYANNUR VILLAGE, THRISSUR.
3. REMA PRADEEP, AGED 53 YEARS,
W/O.V.C.PRADEEP, RESIDING AT PAZHAYANNUR RUBBER ESTATE,
THALAPPILLY TALUK, PAZHAYANNUR VILLAGE, THRISSUR.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT(S) :

1. ADDITIONAL TAHSILDAR,
THALAPPILLY, THRISSUR DISTRICT - 680 583.
2. VILLAGE OFFICER,
PAZHAYANNUR VILLAGE, THRISSUR DISTRICT -680 587.
3. REVENUE DIVISIONAL OFFICER,
THRISSUR DISTRICT- 680 001.

* ADDITIONAL R4 IMPEADED

4. BABY VELLAPPARA, ,
JANAKEEYA SAMRAKSHANA SAMITHI,
SWAGATH APARTMENT, PAZHAYANNUR.

* ADDITIONAL R4 IS IMPEADED AS PER ORDER DATED 04.11.2015 IN
I.A.NO.14593 OF 2015.

R1 TO R3 BY GOVERNMENT PLEADER SRI.GIKKU JACOB
ADDL.R4 BY ADVS. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P-1:** TRUE COPY OF THE PROJECT REPORT IN RESPECT OF THE CRUSHER UNIT TO BE ESTABLISHED BY NILA METALS PRIVATE LIMITED.
- EXT.P-2:** TRUE COPY OF DOCUMENT NO.477/1/2014 OF THE PAZHAYANNUR S.R.O
- EXT.P-3:** TRUE COPY OF THE REPORT DATED 23.12.2014 OF THE 2ND RESPONDENT.
- EXT.P-4:** TRUE COPY OF THE ORDER DATED 28.01.2015 PASSED BY THE 1ST RESPONDENT.
- EXT.P-5:** TRUE COPY OF THE TAX RECEIPT DATED 18.03.2013 ISSUED BY THE 2ND RESPONDENT IN FAVOUR OF SMT.RAMA PRADEEP.
- EXT.P-6:** TRUE COPY OF THE JUDGEMENT OF THIS HON'BLE COURT IN W.P.(C).NO.6370/2015 DATED 27.02.2015.
- EXT.P-7:** TRUE COPY OF THE ORDER DATED 28.05.2015 PASSED BY THE SUB COLLECTOR.
- EXT.P-8:** TRUE COPY OF THE LETTER DATED 24.06.2014 ISSUED BY THE CHIEF TOWN PLANNER, THIRUVANANTHAPURAM.
- EXT.P-9:** TRUE COPY OF PARTITION DEED NO.121 OF 1996 DATED 12.01.1996.
- EXT.P-10:** TRUE COPY OF SETTLEMENT DEED NO.527 OF 1970 DATED 25.06.1970.

RESPONDENT(S)' EXHIBITS :

- EXHIBIT R4(A):** TRUE COPY OF THE REPRESENTATION DATED 21.01.2015 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR ALONG WITH RECEIPT.

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P(C).No. 17226 of 2015

Dated this the 4th November, 2015

JUDGMENT

The petitioners purchased a property vide document No.477/1/2014 in S.R.O, Pazhayannur. The document consists of three items of property belonged to three persons, namely, I.N.Prabhavathy, V.C.Pradeep and Rema Pradeep.

2. The petitioners approached the Revenue officials to effect transfer of Registry, which was objected. The Revenue officials refused to effect transfer of Registry stating that one of the executants of the document (vendor), Rema Pradeep, has no right or ownership in respect of the property conveyed to her as per document No.477/1/2014.

3. However, there is no dispute as to the right of I.N.Prabhavathy and V.C.Pradeep. Apart from the above objection, the Revenue officials have other objection relating to ceiling limit of the petitioner. The Revenue

officials have also a case that the property was exempted as plantation land under the Land Reforms Act. Therefore, the question whether the petitioners are entitled for transfer of Registry.

4. Since there was no dispute regarding the title of I.N.Prabhavathy and V.C.Pradeep, this Court is of the view that the Revenue officials ought not to have rejected the transfer of Registry in respect of the property conveyed by I.N.Prabhavathy and V.C.Pradeep. As far as Rema Pradeep is concerned, the objection is that she has no ownership and title over the property.

5. The land in question was originally the subject matter of a settlement deed executed in the year 1970 selling in favour of I.N.Prabhavathy and her three minor children. The 'B' schedule in that document was set apart the share of V.C.Pradeep. V.C.Pradeep in the year 1996 entered into a partition deed with Rema Pradeep and allotted a portion of the property to Rema Pradeep. It is obvious that the objection now pointed out is regarding

the pre-existing right of Rema Pradeep. It is pointed out by the Revenue officials that Rema Pradeep has no traceable title. The nomenclature of a document is not a decisive in determining the transfer of Registry. If a person consciously transfers the interest to any other person, though it may be styled as a partition deed, it can be settled as well. There is no impediment in transferring such right. However, it is always a concern of the Registering authority to ensure that proper stamp duty is paid after determining the nature of transfer being effected by transferrer. The Registering authority ought to have pointed out that at that point of time competency of Rema Pradeep being made a party to a partition deed. It appears that the deficiency on the part of the Sub Registrar is being questioned and attempted to be objected by the refusal to transfer of Registry. If any document is insufficiently stamped, it cannot be said that the transfer effected based on that insufficiently stamped document is invalid. It is a matter either for impounding or

a matter to be determined in accordance with the Stamp Act or relevant provisions of the law.

6. As far as the transfer of ownership of Rema Pradeep is concerned, V.C.Pradeep, who was the owner, has no objection. Therefore, even assuming that the document could not be treated as a partition deed, this Court cannot hold that no title is passed to Rema Pradeep, as V.C.Pradeep has acknowledged passing of title to Rema Pradeep.

7. In that view of the matter, considering the scope of enquiry under the Transfer of Registry Rules, this Court is of the view that the objection now put forward is beyond the scope of an enquiry being conducted under the Transfer of Registry Rules. However, the Revenue officials can always point out to the Taluk Land Board regarding the excess land held by the petitioner, if any, and also if the transfer was in violation of the exemption granted under the Land Reforms Act.

8. With the above liberty, the Writ Petition is disposed of with the following direction:

Transfer of Registry shall be effected in favour of the petitioners based on the document No.477/1/2014 within three weeks from the date of receipt of a copy of this judgment.

In view of the above direction, the orders impugned are quashed.

**A.MUHAMED MUSTAQUE
JUDGE**

vgs5/11/15