

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 17435 of 2015 (D)

PETITIONER:

MARY, AGED 50 YEARS,
W/O. JOHNSON, VILANGADAN HOUSE,
P.O CHEROOR, THRISSUR - 680 008.

BY ADVS.SRI.N.M.MADHU
SMT.C.S.RAJANI

RESPONDENT(S):

1. THE SUB REGISTRAR,
SUB REGISTRAR'S OFFICE,
WADAKKANCHERY.
2. V.V.THOMAS, AGED 58 YEARS,
S/O. VAREED, VADAKKODDEN HOUSE,
PUNNAMPARAMBU, THEKKUMKARA P.O,
WADAKKANCHERY - 680589.
3. V.V. DEVASSY, AGED 56 YEARS, S/O. VAREED,
VADAKKODDEN HOUSE, PUNNAMPARAMBU,
THEKKUMKARA P.O, WADAKKANCHERY - 680589.
4. V.V. OUSEPH, AGED 65, S/O. VAREED,
VADAKKODDEN HOUSE, PUNNAMPARAMBU,
THEKKUMKARA P.O, WADAKKANCHERY - 680589.

R1 BY GOVERNMENT PLEADER SRI.MANOJ P.KUNJACHAN
R2 & R3 BY ADVS. SRI.V.V.SURENDRAN
SRI.PA.HARISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE WILL DATED 5.7.1998.**
- EXHIBIT P2: TRUE COPY OF THE SETTLEMENT DEED NO. 2721/1991 OF SRO, WADAKKANCHERRY.**
- EXHIBIT P3: TRUE COPY OF THE RELEASE DEED NO. 22/1991 OF SRO WADAKKANCHERRY.**
- EXHIBIT P4: TRUE COPY OF THE SETTLEMENT DEED NO.820/1991 OF SRO WADAKKANCHERRY.**
- EXHIBIT P5: TRUE COPY OF THE RELEASE DEED NO.58/1991 OF SRO, WADAKKANCHERRY.**
- EXHIBIT P6: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 9.4.2015.**
- EXHIBIT P7: TRUE COPY OF THE BASIC TAX RECEIPT DATED 7.4.2015.**
- EXHIBIT P8: TRUE COPY OF THE LETTER BEARING C NO.77/2015 DATED 17.4.2015 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P9: TRUE COPY OF THE LAWYER NOTICE DATED 22.5.2015.**
- EXT P9(A): TRUE COPY OF THE ACKNOWLEDGEMENT CARD.**
- EXHIBIT P10: TRUE COPY OF THE PARTITION DEED DATED 26.3.2015**

RESPONDENT(S)' EXHIBITS:

- EXT. R2(A) : TRUE COPY OF THE ORDER OF THE LETTER DATED 1.6.15 BY RESPONDENTS 2 AND 3 TO THE 1ST RESPONDENT.**

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 30th day of July, 2015

J U D G M E N T

The issue is in a very narrow compass. The petitioner presented Ext.P10 partition deed before the Sub Registrar, the 1st respondent herein for registration. The Sub Registrar refused to register the document on the ground that respondents 2 to 4 are opposing the same. Evidently, the properties partitioned as per Ext.P10 partition deed devolved upon the petitioner and the other parties by Ext.P1 will. The respondents 2 to 4 also had a claim flowing from the very same will, is the contention of the Registrar.

2. However, now respondents 2 and 3 appear through the Counsel and submit that their shares have already been allotted. Respondent 4 despite notice from this Court has not

cared to appear before this Court. The Counsel for the petitioner and the respondents 2 and 3 specifically contend that the respondent 4 had no right flowing from the will.

3. The learned Government Pleader submits that the situation occurred, only by reason of a subsequent settlement between the parties. Respondents 2 to 4 are said to have filed a complaint before the Sub Registrar, against the registration of the document. The same is admitted by the respondents 2 and 3. Even going by the admitted facts, the law would not favour such action by the Sub Registrar. If at all a complaint was filed before the Registrar, he should have relegated the parties to the Civil Court. The proper remedy of the respondents 2 to 4 was to approach a Civil Court. An objection of this nature cannot interdict the registration of a document validly presented before the Sub Registrar.

In such circumstances, considering the fact that the Sub Registrar's action even at the point of time of presentation

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was illegal, it is directed that on presentation of Ext.P10 within three weeks, the same shall be registered de hors Section 23 of the Registration Act, 1908.

The writ petition would stand allowed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.