

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C) .No. 30112 of 2006 (I)

PETITIONER(S) :

1. THOMAS,
S/O.JOSEPH, AGED 42,
MULLAKARIYIL HOUSE, ELAMDESOM KARA,
VELLIYAMATTOM VILLAGE, THODUPUZHA TALUK.
2. MOLLY THOMAS,
AGED 39, W/O.THOMAS,
MULLAKARIYIL HOUSE, ELAMDESOM KARA,
VELLIYAMATTOM VILLAGE, THODUPUZHA TALUK.

BY ADV. SRI.JOHNSON MANAYANI.

RESPONDENT(S) :

1. THE DISTRICT REGISTRAR,
O/O. DISTRICT REGISTRAR, ERNAKULAM.
2. THE STATE OF KERALA,
REP. BY ITS DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF SALE DEED WHEREBY THE VENDOR SOLD THE PROPERTY TO THE FIRST PETITIONER'S BROTHER.
- EXHIBIT P1(A) : TRUE COPY OF SALE DEED WHEREBY THE VENDOR SOLD THE PROPERTY TO THE FIRST PETITIONER'S BROTHER.
- EXHIBIT P2: TRUE COPY OF THE SALE DEED EXECUTED BY THE FIRST PETITIONER'S BROTHER TO THE PETITIONERS.
- EXHIBIT P3: TRUE COPY OF THE NOTICE ISSUED TO THE FIRST PETITIONER.
- EXHIBIT P4: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER.
- EXHIBIT P5: TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DATED 03/02/2004.
- EXHIBIT P6: TRUE COPY OF CMA NO.26/2004 OF THE DISTRICT COURT, ERNAKULAM.
- EXHIBIT P7: TRUE COPY OF THE ORDER OF THE HONOURABLE DISTRICT COURT, ERNAKULAM IN CMA NO.26/2004 DATED 12/06/2006.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

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W.P.(C) No.30112 of 2006 - T

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Dated this the 4th day of August, 2015

J U D G M E N T

The petitioners in the above writ petition is aggrieved with the demand raised for deficit stamp duty and registration fees, with respect to a document executed as document No.4059 of 2003 dated 01.08.2003 of the S.R.O, Ernakulam. The petitioners objections before the 1st respondent was rejected by Ext.P5 and so was the appeal before the Government by Ext.P7. The petitioners before this Court challenged Ext.P7, which confirmed Ext.P5.

2. The grounds raised on appeal were that the vendor and the vendee were siblings and that the land was purchased initially in the name of the vendor for the petitioners herein. The transaction is also one alleged to be a family arrangement. Further it is stated that the property when purchased in the year

1996 had much lesser value and no improvements were made in the property. The specific contention was that the present value of the property is much lower than that for which it was purchased, since, there is diminishing market value for real estate.

3. The District Court in Ext.P7 has specifically found that there is absolutely no evidence adduced to substantiate any of the contentions. The deed did not disclose that the same was a family arrangement. Nor was there any evidence adduced to prove that the property in fact was purchased for the benefit of the petitioners, despite it being in the name of the brother of the 1st petitioner. The District Court specifically found that merely because the transaction was between the brothers, it cannot be said to be a family arrangement nor would stamp duty be any different from a normal conveyance. But for the contentions raised in appeal, there was absolutely no evidence adduced before the District Court, even as to the probable value of similar

properties in the locality.

4. The District Court in fact found from the report of enquiry before the District Registrar that the property is situated in a very ideal location. The District Registrar had after getting a report on the probable value of the property fixed it as Rs.12,00,000/-. The petitioners however did nothing to discharge their burden to prove that the actual consideration paid being Rs.2,80,500/- was the value of the property.

In such circumstance, this Court does not find any reason to interfere with the impugned orders. The writ petition hence would stand dismissed.

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

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// true copy //

P.A to Judge.