

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 26558 of 2009 (L)

PETITIONER(S):

**SAVITHA A., D/O.P.RAGHAVAN AND
W/O.T.NARAYANAN, KOYONKARA, NORTH TRIKARPUR VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.**

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. THE TAHSILDAR, HOSDURG,
KASARAGOD DISTRICT.**
- 3. SHEEBA K., D/O.DAMODHARAN MADAYI,
KADAMKODE, CHERUVATHUR VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.**
- 4. THELAPRATH AMMINI, W/O.LATE KOTTAN,
KOYAMKARA, P.O.TRIKARIPUR, HOSDURG TALUK,
KASARAGOD DISTRICT.**

R1 & R2 BY GOVERNMENT PLEADER SRI.S.JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF MARRIAGE CERTIFICATE ISSUED BY THE TRIKARPUR PANCHAYAT, DTD.16.9.2008.

EXT.P2: TRUE COPY OF BIRTH CERTIFICATE ISSUED BY THE TRIKARPUR GRAMA PANCHAYAT.

EXT.P3: TRUE COPY OF DISSOLUTION DEED, DTD.13.6.2004 EXECUTED BY T.NARAYANAN ALIAS SURESH AND 3RD RESPONDENT.

EXT.P4: TRUE COPY OF DEATH CERTIFICATE ISSUED BY THE REGISTRAR OF BIRTHS AND DEATH, TRIKARPUR GRAMA PANCHAYAT ON 20.5.2008.

EXT.P5: TRUE COPY OF APPLICATION, DTD.2.5.2008 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF AFFIDAVIT, DATED 9.9.2008 SUBMITTED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P7: TRUE COPY OF REPRESENTATION, DTD.29.11.2008 SUBMITTED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P8: TRUE COPY OF JUDGMENT, DTD.28.1.1009 IN WP(C) 2824/2009.

EXT.P9: TRUE COPY OF ORDER REF: C6-25802/08, DTD.7.4.2009, OF THE TAHSILDAR, HOSDRUG.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. VINOD CHANDRAN, J.

W.P.(C) No.26558 of 2009 (L)

Dated this the 28th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that a Legal Heirship Certificate, on the death of the petitioner's husband, is not issued since the husband of the petitioner had entered into a marriage with the 3rd respondent prior to the marriage with the petitioner.

2. Admittedly, the petitioner's husband was earlier married to the 3rd respondent. The said marriage is said to have been dissolved by Ext.P3 dissolution deed, which cannot be said to be one sustainable in the eye of law. However, the petitioner pleads custom and also contends that the subsequent marriage to the petitioner also is valid as per custom. That however, would have to be pleaded and established in an appropriate civil proceeding. This Court would not, in such circumstance, invoke the extraordinary jurisdiction under Article 226 of the Constitution of India.

Writ petition would stand dismissed reserving such liberty.

Sd/-
K.VINOD CHANDRAN,
JUDGE