

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 22970 of 2015 (U)

PETITIONER(S):

**JANCY ANTONY,
FLAT NO. 11B, MATHER ORCHARD (GREAT),
PANAMPILLY NAGAR, COCHIN.**

**BY ADVS.SMT.LENI SUSAN THOMAS
SMT.NIDHI RAVINDRAN**

RESPONDENT(S):

**1. THE DISTRICT COLLECTOR,
O/O. THE DISTRICT COLLECTOR,
ERNAKULAM-682 030.**

**2. THE THAHSILDAR,
TALUK OFFICE, FORT KOCHI-682 002.**

*** ADDITIONAL R3 TO R5 IMPEADED**

**3. MRS.TRESSA GEORGE, AGED 86 YEARS,
W/O.LATE M.J. GEORGE, MANAKKAL, AZHEEKKAL P.O.,
VYPIN, KOCHI - 682 019.**

**4. SUDHEESH ANTONY, AGED 24 YEARS,
S/O.LATE ANTONY GEORGE, MATHER ORCHAD (GEAT),
FLAT NO.11B, PANAMPILLY NAGAR, KOCHI - 682 036.**

**5. SHIYA RENEETTA ANTONY,
D/O.LATE ANTONY GEORGE, KANDATHIL HOUSE, DIVINE NAGAR,
SOUTH CHITTOOR, ERNAKULAM - 682 027.**

*** ADDL.R3 TO R5 ARE IMPEADED AS PER ORDER DATED 30.07.2015 IN
IA 11040/15.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.GIKKU JACOB
R4 BY ADV. SMT.NEELIMA V.NAIR
R5 BY ADV. SRI.SAJAN MANNALI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 22970 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- TRUE COPY OF THE GAZETTE NOTIFICATION NO. H2-6745/2015
DATED 30-06-2015.**

EXHIBIT P2- TRUE COPY OF THE OBJECTION DATED 13-5-2015.

EXHIBIT P3- TRUE COPY OF THE LETTER DATED 26-5-2015.

EXHIBIT P4- TRUE COPY OF THE OBJECTION DATED 2-6-2015.

EXHIBIT P5- TRUE COPY OF THE LETTER DATED 8-6-2015.

EXHIBIT P6- TRUE COPY OF THE I.A.NO. 2176/2015.

**EXHIBIT P7- TRUE COPY OF THE RECEIPT DATED 27-6-2015 FOR THE
RTI APPLICATION.**

EXHIBIT P8- TRUE COPY OF LETTER DATED 4-7-2015.

EXHIBIT P9- TRUE COPY OF THE OBJECTIONS DATED 22-7-2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 22970 of 2015

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Dated this the 19th day of November, 2015

J U D G M E N T

The petitioner claims that she is the widow of late Antony George. Late Antony George was passed away on 3.3.2015. The issue in this writ petition pertains to the legal heir certificate issued to the legal heirs. The legal heirs include mother as well as the children of the deceased. The Tahsildar excluded the petitioner among the legal heirs for the reason that the petitioner has been divorced. The petitioner submits that she has not been divorced. It is submitted that divorce obtained by the deceased husband was ex parte and the petitioner has taken steps to set aside the ex parte decree.

2. The petitioner has a case that as per the personal law, mother of the deceased is not a legal heir. The Children of the deceased also support the above contention.

3. This Court is of the view that the Tahsildar can issue

legal heir certificate only after conducting an enquiry as to the personal law applicable to the deceased. The Tahsildar shall find out whether as per the personal law applicable the mother would come into the ambit of legal heir of the deceased or not.

4. It is seen that Exts.P2, P4, P9 objections have been raised before the Tahsildar for including the mother as the legal heir.

5. This Court is of the view that the legal heir certificate notified to the extent applicable to the deceased Antony George has to be set aside. Accordingly the following directions are issued.

The Tahsildar shall conduct an enquiry as per the personal law applicable to the late Antony George. While conducting such enquiry, notice shall be given to the petitioner as well as the children of the deceased Antony George and also to the mother of the Antony George. The Tahsildar also shall find out whether the petitioner has been legally divorced by the deceased Antony George. Based on the enquiry the Tahsildar shall issue legal heir certificate in accordance with the law. Needful shall be done

within two months from the date of receipt of the copy of this judgment. The petitioner shall produce copy of the judgment before the Tahsildar for compliance.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE