

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937**

**WP(C).No. 23298 of 2015 (J)**  
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**PETITIONER(S) :**  
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**JOY, AGED 45 YEARS,  
S/O.CHACKO, KAVUMPURATH HOUSE, THANKALAMKARA DESOM,  
THRIKKARIYOOR VILLAGE, KOTHAMANGALAM TALUK.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)  
SRI.N.L.BITTO**

**RESPONDENT(S) :**  
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- 1. THE STATE OF KERALA, REP. BY THE SECRETARY TO  
THE GOVERNMENT, REVENUE DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR, COLLECTRATE ,  
AYYANTHOLE, THRISSUR, THRISSUR DISTRICT - 680 001.**
- 3. THE TAHASILDAR, MUKUNDAPURAM TALUK, CIVIL STATION,  
IRINJALAKUDA, THRISSUR DISTRICT - 680 001.**

**BY GOVERNMENT PLEADER SRI.GIKKU JACOB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

Msd.

**APPENDIX**

**PETITIONER(S)' EXHIBITS :**  
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**EXHIBIT P1: A TRUE COPY OF THE DECREE IN O.S.NO.396 OF 2011 OF  
ADDL. SUB COURT, IRINJALAKUDA DATED 22.02.2013.**

**EXHIBIT P2: A TRUE COPY OF THE STAMP PAPERS PRODUCED FOR  
PREPARING SALE DEED IN O.S.NO.396 OF 2011 OF ADDL.SUB  
COURT, IRINJALAKUDA DATED 02.01.2014, RELEVANT PAGES  
SHOWN IN THE STAMP PAPER VALUE.**

**EXHIBIT P3: A TRUE COPY OF THE ORDER PASSED IN I.A.NO.90/2014, IN  
O.S.NO.396 OF 2011 OF ADDL.SUB COURT, IRINJALAKUDA  
DATED 13.03.2014.**

**EXHIBIT P4: A TRUE COPY OF THE APPLICATION FILED BEFORE  
THE 3RD RESPONDENT DATED 30.01.2015.**

**EXHIBIT P5: THE TRUE COPY OF THE ORDER PASSED BY  
THE 3RD RESPONDENT DATED 25.02.2015.**

**RESPONDENT(S)' EXHIBITS :**  
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**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE.**

Msd.

**A.MUHAMED MUSTAQUE, J.**

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**W.P(C)No. 23298 of 2015**  
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**Dated this the 7<sup>th</sup> day of October, 2015**

**J U D G M E N T**

The petitioner is the plaintiff in a suit for specific performance. The suit was ex parte decreed on 22.2.2013 and the petitioner, in execution proceedings, was directed to produce draft sale deed in a stamp paper. Petitioner purchased the stamp paper on 28.12.2013 and produced the sale deed on 3.1.2014 in a stamp paper worth ₹75,000/-.

2. Thereafter, ex parte decree was set aside on 13.3.2014. Therefore, petitioner was unable to use the stamp paper.

3. In terms of Section 48 of the Stamp Act, the application for refund of the spoiled stamp paper can be made within six months. This Court in **Wilson Chakkappan v. Tahsildar** [2012(4) SN 74 (C.No.57)] held that if there is sufficient cause made out under Section 48, even after the period of six months, the refund can be

made in respect of the spoiled stamp. Therefore, following the above judgment, the petitioner is entitled for refund, though he has submitted application for refund after six months as the petitioner has made out reasonable cause for the delay.

This writ petition is disposed of as above

sd/-

**A.MUHAMED MUSTAQUE,**  
Judge

MBS/

WP(C).NO.23298 of 2015

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