

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 27149 of 2012 (P)

PETITIONER:

C.P.FRANCIS, AGED 51 YEARS,
S/O.LATE OUSEPH PAPPU,
CHAKKALAPARAMBIL HOUSE,
EDEKKUNNAM, CHERANELLOOR,
ERNAKULAM DISTRICT.

BY ADV. SRI.T.P.SANTHOSH KUMAR

RESPONDENT(S):

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1. THE REVENUE DIVISIONAL OFFICER, ERNAKULAM,
REVENUE DIVISIONAL OFFICE, FOR KOCHI - 682 001.
 2. THE ADDITIONAL TAHSILDHAR,
KANAYANNUR TALUK, ERNAKULAM DISTRICT - 682 011.
 3. THE VILLAGE OFFICER,
CHERANELLOOR VILLAGE - 682 034.
 4. ROSY MARGRET, AGED ABOUT 52 YEARS,
W/O.XAVIER, RESIDING AT PUTHEZHATH HOUSE,
KALOOR, ERNAKULAM DISTRICT - 682 017.

*ADDL. R5 IMPEADED

5. DAINATIOUS, AGED 39 YEARS, S/O.VARUTHUKUTTY,
CHAKKALAKKAL, CHITTOR DESAM,
CHERANELLOOR VILLAGE.

ADDL. R5 IS IMPEADED AS PER ORDER DATED 02/04/2013 IN IA 3715/2013.

R1 TO R3 BY GOVT, PLEADER SMT.ANITHA RAVINDRAN

ADDL. R5 BY ADVS. SRI.P.MARTIN JOSE
SRI.S.VAIDYANATHAN

R4 BY ADVS. SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.N.SUNIL
SRI.LITTO VARGHESE PALATHINKAL
SMT.C.S.GEETHU
SRI.V.M.KURIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S) EXHIBITS:

- EXT.P1: THE PHOTOCOPY OF THE PARTITION DEED NO.2592/1990.
- EXT.P2: THE PHOTOCOPY OF THE JUDGEMENT DATED 20/3/2009 IN
A.S.NO.492/2002 OF HON'BLE HIGH COURT.
- EXT.P3: THE PHOTOCOPY OF THE OBJECTION FILED BY THE PETITIONER
DATED 19/3/2010 BEFORE THE ADDITIONAL TAHSILDAR, KANAYANNUR
TALUK OFFICE.
- EXT.P4: THE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 25/9/2012.

RESPONDENTS' EXHIBITS:

- EXT.R4(A) : THE TRUE COPY OF THE JUDGMENT OF THE SUB JUDGE
ERNAKULAM IN O.S.NO.896 OF 1995.
- EXT.R4(B) : THE TRUE COPY OF THE JUDGMENT OF THE HONOURABLE HIGH
COURT OF KERALA IN A.S.NO.492 OF 2002 DATED 20.3.2009.
- EXT.R4(C) : TRUE COPY OF THE DELIVERY ORDER AND REPORT IN E.P.NO.484 OF
2009 IN O.S.NO.896 OF 95 BEFORE THE SUB COURT ERNAKULAM
DATED 31.3.2011.
- EXT.R4(D) : THE TRUE COPY OF THE DELIVERY ORDER AND REPORT
DATED 24.10.1967 IN O.S.NO.644 OF 1964 BEFORE THE MUNSIFF'S
COURT, ERNAKULAM.

/TRUE COPY/

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 27149 of 2012

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Dated, this the 20th day of February, 2015

JUDGMENT

This writ petition has been filed by the petitioner contending that Ext. P4 notice issued by the first respondent requiring the petitioner to appear for hearing, pursuant to the application filed by the 4th respondent for effecting mutation, is not correct either on facts or in law. The contention is that the property actually belonging to the petitioner and that he is allegedly enjoying the same with absolute ownership, exclusive possession and clear and marketable title.

2. The 4th respondent has filed a counter affidavit pointing out the sequence of events and also producing relevant documents as Exts. R4(a) and R4(b). The learned counsel for the petitioner submits that the petitioner is claiming title on the strength of Ext. P1 partition deed, which could not have any valid existence in the eye of law and it was sought to be set aside by filing O.S. 896 of 1995 at the instance of the 4th respondent joining hands with somebody else. The petitioner herein was the 5th respondent in the said suit. On

conclusion of the trial Ext. R4(a) judgment was passed, whereby Ext. P1 partition deed , which was produced as Ext. A6 therein, was held as not a valid document and a declaration was given in this regard to the effect that same was null and void. An appeal was preferred against the said verdict by the petitioner, wherein interference was declined and the same was dismissed as per Ext. R4(b) judgment dated 20.03.2009 passed by this Court. It was in the said circumstances, that the petitioner approached the Revenue Authorities by filing a petition for effecting the mutation; pursuant to which, Ext. P4 notice was issued by the respondent to all the beneficiaries concerned including the petitioner herein and the 5th respondent. The learned counsel for the petitioner submits that the matter could be caused to be finalized by the first respondent, after affording an opportunity of hearing to all concerned.

3. Heard the learned Government Pleader as well.

4. Considering the facts and circumstances, this Court does not find it necessary to adjudicate the issue on merits and the parties are at liberty to produce all the relevant materials to the notice of the first respondent. The proceedings pursuant to

Ext.P4 shall be finalized by the first respondent, after hearing the all concerned, including the petitioner and the 4th and 5th respondents and other interested parties, if any, which shall be done at the earliest, at any rate, within three months from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the first respondent for further steps.

The Writ Petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd