

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 26330 of 2013 (M)

PETITIONER(S):

**ALUVA TOWN CO-OPERATIVE HOUSING SOCIETY
REPRESENTED BY ITS SECRETARY, BANK JUNCTION
ALUVA 683101**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI.ARJUN RAGHAVAN**

RESPONDENT(S):

- 1. THE SUB REGISTRAR
CHENGAMANAD, ERNAKULAM DISTRICT 683578**
- 2. THE DISTRICT REGISTRAR (GENERAL)/ COLLECTOR,
ERNAKULAM 682030**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
CO-OPERATION (C) DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVBANANTHAPURAM 695001**

BY SR. GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-03-2015,
ALONG WITH WPC. 3398/2014, WPC. 13609/2014, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

WP(C).No. 26330 of 2013 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 COPY OF THE RELEVANT PAGES OF THE BYELAWS OF THE PETITIONER SOCIETY
EXHIBIT P2 COPY OF THE LETTER NO INS 4-53973/87 DATED 27-03-1989 ISSUED BY THE INSPECTOR GENERAL OF REGISTRATION
EXHIBIT P3 COPY OF THE SALE DEED NO P5/13 DATED 14-08-2013 OF THE CHENGAMANAD SUB REGISTRAR'S OFFICE
EXHIBIT P4 TRUE COPY OF THE SALE DEED NO P6/13 DATED 19-08-2013 OF THE CHENGAMANAD SUB REGISTRAR'S OFFICE,
EXHIBIT P5 TRUE COPY OF THE NOTICE NO INS(2) 2671/13 DATED 29-08-2013 ISSUED BY THE 2ND RESPONDENT
EXHIBIT P6 TRUE COPY OF THE NOTICE NO INS(2) 2672/13 DATED 29-08-2013 ISSUED BY THE 2ND RESPONDENT
EXHIBIT P7 COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 05-09-2013
EXHIBIT P8 TRUE COPY OF THE ORDER NO INS(2) 2671/13 DATED 12-09-2013 OF THE 2ND RESPONDENT
EXHIBIT P9 TRUE COPY OF THE ORDER NO INS(2) 2672/13 DATED 23-09-2013 OF THE 2ND RESPONDENT
EXHIBIT P10 TRUE COPY OF THE ORDER NO INS(2) 157/13 DATED 07-10-2013 OF THE FIRST RESPONDENT
EXHIBIT P11 TRUE COPY OF THE ORDER NO INS(2) 158/13 DATED 07-10-2013 OF THE FIRST RESPONDENT

RESPONDENT(S)' EXHIBITS:

Anx. R2(A) COPY OF THE JUDGMENT OF THIS COURT IN W.P.(C).No. 2377/2009.

Anx. R2(B) COPY OF THE PROCEEDINGS OF THE LAND REVENUE COMMISSIONER DTD.2.9.2011.

Anx. R2(C) COPY OF THE GOVT. ORDER DTD.22.4.1969.

Anx. R2(D) COPY OF THE GOVT. ORDER DTD.12.3.1970.

Anx. R2(E) COPY OF THE DIVISION BENCH ORDER IN W.A.No. 1216/2007 DTD.15.6.2011.

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P.S. to Judge

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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W.P.(C).Nos.26330/2013, 3398/2014 & 13609/2014

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Dated this the 30th day of March, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

These Writ Petitions are filed by M/s.Aluva Town Co-operative Housing Society Ltd., claiming the benefit of SRO 75/60 providing remission of stamp duty in respect of documents executed by or on behalf of the co-operative societies. By judgment dated 20th of February, 2015, the cases were disposed of clarifying that in the light of the Full Bench judgment in Sub Registrar, Palakkad v. Kerala State Co-operative Consumers Federation Limited, Kochi [2015 (1) KHC 17], the documents evidencing the purchase of the property by the petitioner society qualify for the benefit of remission of stamp duty as provided in SRO 75/60.

2. However, noticing that the said view taken was not correct in the light of the principles laid down in the Full Bench decision referred to above, the order dated 23rd March, 2015 was passed by this Court, which reads thus:

These writ petitions were disposed of by judgment dated 20/2/15 upholding the claim of the petitioner society for the benefit

of SRO No.75/60. In coming to the conclusion, this Court also referred to the Full Bench judgment in Sub Registrar, Palakkad v. Kerala State Co-operative Consumers Federation Limited, Kochi (2015 (1) KHC 17). However, subsequently, it is noticed that the ratio of the Full Bench judgment will not entitle the petitioner society to claim the benefit of SRO No.75/60. Therefore, these cases were again posted today for spoken to, to decide whether the judgment is to be recalled.

2. Sri.V.G.Arun, the learned counsel for the petitioner will make his submissions on the above on 27/3/15.

Post on 27/3/15.”

It is in the above background that these cases are again posted before us today.

3. We heard the learned counsel for the petitioner and considered the submissions made.

4. Admittedly the petitioner society has purchased immovable property from its members. The judgment of the Full Bench which examined the scope of SRO 75/60 itself would amply make it clear that such documents do not qualify for the benefit of SRO 75/60. This therefore shows that the view taken by this Court in the common judgment dated 20th of February, 2015 is incorrect. Therefore, the judgment dated 20th of February, 2015 disposing of the Writ Petitions is recalled and the Writ Petitions are dismissed in the light of the Full Bench judgment in Sub Registrar, Palakkad v.

Kerala State Co-operative Consumers Federation Limited, Kochi
reported in 2015 (1) KHC 17.

Sd/-
ANTONY DOMINIC, JUDGE

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Sd/-
ALEXANDER THOMAS, JUDGE

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P.S. to Judge