

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 26343 of 2015 (P)

PETITIONER(S):

1. MUHAMMAD ASHRAFF, AGED 36 YEARS,
S/O. SAIDALAVI, PUTHAN PEEDIKAYIL HOUSE,
THRISSUR.
2. SUDHAKARAN K., S/O. APPU NAIR,
AMRUTHA NIVAS, CHELAKKARA P.O.,
THRISSUR DISTRICT.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
SMT.INDULEKHA JOSEPH

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE SUB REGISTRAR,
SUB REGISTRAR OFFICE, CHELLAKKARA,
THRISSUR DISTRICT-680 586.
3. THE VILLAGE OFFICER,
VENGALLANNUR GROUP VILLAGE,
CHELLAKARA P.O., THRISSUR DISTRICT-680 586.
4. TAHSILDHAR, CHELLAKKARA, TALAPPILLI TALUK,
WADAKKANCHERRY, THRISSUR DISTRICT-680 582.
5. THE RDO, AYYANTHOLE,
THRISSUR DISTRICT-680 003.
6. DISTRICT COLLECTOR
COLLECTORATE OFFICE, AYYANTHOLE,
THRISSUR DISTRICT-680 003.

WP(C).No. 26343 of 2015 (P)

- 7. THE SUPERINTENDENT OF POLICE,
THRISSUR DISTRICT-680 003.**
- 8. CIRCLE INSPECTOR,
CHELLAKKARA POLICE STATION,
THRISSUR DISTRICT-680 586.**
- 9. SUB INSPECTOR OF POLICE,
EAST POLICE STATION, THRISSUR CITY, PIN-680 005.**

BY SPECIAL GOVERNMENT PLEADER SRI.ABDUL SALAM

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-11-2015 ALONG WITH WPC. 25234/2013, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : A TRUE PHOTOCOPY OF THE TITLE DEED OF THE PROPERTY SITUATED IN SURVEY NO.231/3P.
- P2 : A TRUE PHOTOCOPY OF THE TAX RECEIPTS OF THE PROPERTY SITUATED IN SURVEY NO.231/3P.
- P3 : A TRUE PHOTOCOPY OF THE ENCUMBRANCE CERTIFICATE.
- P4 : A TRUE PHOTOCOPY OF THE TITLE DEED OF THE PROPERTY SITUATED IN SURVEY NO.522/9.
- P5 : A TRUE PHOTOCOPY OF THE TAX RECEIPTS OF THE PROPERTY SITUATED IN SURVEY NO.522/9.
- P6 : A TRUE PHOTOCOPY OF THE AGREEMENT ENTERED INTO BETWEEN THE 1ST RESPONDENT.
- P7 : A TRUE PHOTOCOPY OF THE REQUISITION LETTER VIDE NO.59/11.
- P8 : A TRUE PHOTOCOPY OF THE REQUISITION LETTER VIDE 63/11.
- P9 : A TRUE PHOTOCOPY OF THE REQUISITION LETTER VIDE NO.69/11.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No. 26343 of 2015

&

W.P.(C).No. 25234 of 2013

=====

Dated this the 3rd day of November, 2015

J U D G M E N T

The petitioners approached this Court alleging that the Sub Registrar concerned refused to act upon their request to register the document executed by them conveying their right of interest in immovable property belonged to them.

2. It is seen from the records a crime has been registered under various provisions of Indian Penal Code as well as the Prize chits & Money circulation (Banning) Act, 1978 as against the petitioners. Admittedly the property belongs to the accused.

3. The petitioners refers the notices issued by the Investigating Officer in connection with the Crime registered against the petitioners to the Sub Registrar. In the notices it is stated that the petitioners shall not be allowed to transfer the immovable property or building belonged to them.

4. There is no dispute that the Sub Inspector has issued above notices to the Sub Registrar prohibiting them to act upon the

request of the accused to transfer the right in respect of the immovable property owned by them.

5. It is the case of the Sub Registrar that no document has been presented by the accused for registration. However it is admitted that the Sub Inspector has issued notices prohibiting the Sub Registrar from registering the document. In the counter filed by the Sub Registrar in W.P.(C) No. 25234/13, it is stated in para 3 as follows:

“It is stated that the Writ Petitioner herein was not presented any document for Registration for transferring land in Venganellor Village Survey Nos.920/1, 230/3 & 269/4. The second respondent office had not received any such representation produced along with writ petition, the Exhibit P6. This second respondent office had received letters from the Inspector of Police, Chelakkara (8th respondent), the Sub Inspector of Police, Nilamboor (10th respondent), the Sub Inspector of Police, Kondotty (11th respondent), the Sub Inspector of Police, Erumappetty (12th respondent) requesting to prevent land transaction of the petitioner, who is accused in several cases relating 'Nano Excel Company'. The 2nd respondent office had also received various letters from Inspector of Police, Chalakkara dated 27.06.2011 regarding Crime No.49/11 under Section 420 34 IPC. Another letter from the 10th respondent dated 27.06.2011 regarding Crime No.412/11 under section 420, 409, 7/234. Another letter from the 11th respondent received on 15.07.2011 regarding Crime No.459/2011 under the provisions of Prize Chits & Money Circulation Scheme (Banning) Act, 1978 under Section 3&4. A letter dated 20.07.2011 from the 12th respondent regarding Crime No.301/2011 under section 406, 420, 34 IPC and under section 3,4,5,6 of Prize chits & Money circulation (Banning) Act, 1978. In all the letter contained request that to prevent land transaction of the writ petitioner since he is accused in several cases regarding 'Nano Excel Company'. Once again, it is respectfully stated the 2nd respondent office had not received any representation, as evidenced by the Exhibit P6 and had not produced any document by the petitioner for registration of transferring land comprised in

Survey Nos.920/1, 230/3 & 269/4 of Venganalloor Village. Since there was no document produced for registration, there is no question of requiring rejection of document which was allegedly produced for registration before 2nd respondent."

6. It is seen that notices were issued u/s 105 of the Criminal Procedure Code. It appears that nomenclature referred in the communication issued by the Sub Inspector of Police is a mistake. Apparently, the Sub Inspector of Police is relying upon section 102 of Cr.P.C. Sec.102 of Cr.P.C refers to power of police officers to seize certain property.

7. Therefore the question is whether the Sub Inspector of Police has an authority or power u/s 102 of Cr.P.C to seize the property. It is to be noted that the property in this case is immovable property. The power conferred u/s 102 Cr.P.C is in respect of stolen property. Therefore further even if the Sub Inspector of Police has power u/s 102 Cr.P.C, a registration of document would not defeat or hamper such power being exercised by the police officer proceed against the property. No doubt, if the accused have amassed this property based on the amount received, out of the proceeds from commission of an offence, the authorities are free to proceed against the property in accordance with law.

W.P.(C).No. 26343 of 2015
&
W.P.(C).No. 25234 of 2013

- : 4 :-

There is no provision as such now to prohibit the Sub Registrar to register a document on account of registration of crime against the petitioners. In that view of the matter this Court is of the view that if the petitioner presents any instrument conveying the right in respect of the property, the same shall be registered by the Sub Registrar officer in accordance with the law. It is made clear that this will not prejudice any authority to proceed against the property in accordance with the law.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE