

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 29418 of 2015 (B)

PETITIONER(S) :

**E.C.GEORGE, AGED 74 YEARS,
S/O.CHEEKU, ELANJIKKAL HOUSE, IRINJALAKUDA P.O.,
PIN-680 121.**

BY ADV. SMT.P.R.REENA

RESPONDENT(S) :

- 1. DISTRICT REGISTRAR (GENERAL),
CHEMBUKKAVU, THRISSUR, THRISSUR-680 001.**
- 2. SUB-REGISTRAR,
TANA, IRINJALAKUDA P.O., IRINJALAKUDA-680 121
THRISSUR DISTRICT.**

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**P1 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER,
DATED 27.06.2015.**

P2 : TRUE COPY OF THE SALE DEED DATED 30.06.2015.

**P3 : TRUE COPY OF THE RECEIPT ISSUED BY 2ND RESPONDENT
DATED 30.06.2015.**

P4 : TRUE COPY OF THE LETTER DATED 20.07.2015 OF 1ST RESPONDENT.

**P5 : TRUE COPY OF THE OBJECTION DATED 27.07.2015 FILED BY
THE PETITIONER.**

**P6 : TRUE COPY OF THE ORDER DATED 19.08.2015 OF
THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.29418 of 2015

Dated this the 11th day of December, 2015

JUDGMENT

The petitioner challenges Ext.P6 order passed by the first respondent exercising the power of the Collector under the Stamp Act. The petitioner purchased an extent of 3.24 Ares of land in Survey No.505/2 of Pullur Village from one Joshy. Joshy obtained the title as per document No.1712/2014 of Irinjalakuda registry. In the said document, it is referred that Joshi obtained 'Kanam' right. However, while Joshy executing the document, it is mentioned that though it is referred as 'Kanam' right in the original document, in fact, he had a 'Puravaka' right.

2. The District Collector found that the correction in the deed executed by Joshy amounts to two transactions and

therefore, the instrument is bound to impound for want of sufficient stamp duty for correcting 'Kanam' as a conveyance of 'Puravaka'.

3. It is to be noted that Joshy obtained right from Antony, Bindhu and Sindhu and they are not parties to the instrument, which is the subject matter of the proceedings. The recitals in the document describing earlier transaction is of no avail, unless, for the purpose of treating it as a separate transaction, Antony, Sindhu and Bindhu are parties to such document. It is always open for the parties to describe their right and interest in proper terms and conditions without having a separate transaction for the same. While such a description is carried out in any subsequent document, that can be construed only as explanation as to the transaction in the earlier document. However, earlier document has to be decided for its validity with

a earlier document itself not by with reference to subsequent document of the parties.

3. In that view of the matter, this Court is of the view that the reference or recitals in the subsequent document describing earlier right transferred to Joshy as a 'Puravaka' instead of 'Kanam' is of no consequence for determining separate stamp duty for such transaction, especially, when the executants to earlier document are not parties to the present document.

In that view of the matter, the impugned order is set aside and there shall be a direction to the respondents to release the document to the petitioner.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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