

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29486 of 2015 (I)

PETITIONER(S):

- 1. USHAKUMARI P.G., AGED 29 YEARS,
W/O.SATHEESH P.N., HOUSE WIFE, RESIDING AT PLAKKATTIL,
KIZHAKKETHIL, CHERIYANAD, PIN-689 511
CHENGANNOOR.**
- 2. GOWTHAM KRISHNA,
S/O.JAYARAM & USHAKUMARI P.G.,
MINOR AGED 7 YEARS, OF USHAKUMARI.P.G.,
W/O.SATHEESH P.N., HOUSE WIFE,
RESIDING AT PLAKKATTIL, KIZHAKKETHIL, CHERIYANAD,
PIN-689 511, CHENGANNOOR,
REPRESENTED BY HIS MOTHER AND NATURAL
GUARDIAN THE 1ST PETITIONER**

**BY ADVS.SRI.T.JAYAKRISHNAN
SRI.R.KRISHNAKUMAR (CHERTHALA)**

RESPONDENT(S):

- 1. THE DISTRICT REGISTRAR,
OFFICE OF THE DISTRICT REGISTRAR, ALAPPUZHA-688 001.**
- 2. THE SUB REGISTRAR,
SUB REGISTRAR OFFICER, CHERTHALA-688 524.**
- 3. THE SUB REGISTRAR,
SUB REGISTRAR OFFICE, KUTHIYATHODE-688 533.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 29486 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1. A TRUE COPY OF MARRIAGE CERTIFICATE PERTAINING TO THE MARRIAGE
OF THE 1ST PETITIONER DATED 15/9/2006.**

**EXT.P2. A TRUE COPY OF THE DEATH CERTIFICATE ISSUED FROM THE CHERTHALA
MUNICIPALITY DATED 6/10/2010.**

**EXT.P3. A TRUE COPY OF THE RAX RECEIPT EVIDENCING PAYMENT OF TAX IN THE
NAME OF GOPALAKRISHNAN NAIR'S, T.P ACCOUNT NO.4532 , CHERTHALA
VILLAGE.**

**EXT.P4. TAX RECEIPT DATED 28/1/2015 PERTAINING TO 8.09 ARES OF PROPERTY OF
KODAMTHURUTHU VILLAGE OFFICE.**

**EXT.P5. TRUE COPY OF THE RECEIPT DATED 20/11/2014 PERTAINING TO 12.94 ARES
OF PROPERTY OF KODAMTHURUTHU VILLAGE.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.29486 of 2015

Dated this the 29th day of September, 2015

JUDGMENT

The first petitioner is the mother of the second petitioner. They presented a partition deed for registration. The registering authority insisted for production of order from the District Court appointing the first petitioner as a guardian. The petitioners, challenging the above action of the registering authority, have approached this Court.

2. The petitioners rely on the Division Bench judgment of this Court in **Lissy and Others v. Annie and Others [2015(2) KHC 97]**, wherein it is held that the permission under Section 29 of the Guardians and Wards Act, 1890, is not necessary for partition before that is not a one transaction which fall under clause (a) and (b) of Section 29 of the Guardians and Wards Act.

3. This Court is of the view, when a guardian enters into a partition on behalf of the minor child, the *bona fides* of such action of the guardian has been looked into. If it is for this Court to decide

the same and the registering authority, in fact, is not called upon to decide on the validity of the transaction. The limited role of registering authority is only a legal satisfaction of the requirement of the registration. Even a registered document can be impeached later point of time on being satisfied that it does not protect the best interest or the welfare of the minor child. Therefore, this Court is of the view, the registering authority need not insist for production or order from the District Court for registration of partition deed involving a minor. Therefore, the registering authority if otherwise satisfied that the partition deed complied with the legal requirement, shall register the same in accordance with law.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In

