

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C) .No. 30665 of 2015 (G)

PETITIONER(S) :

SHERLY VARGHESE,
W/O LATE A.K.VARGHESE, ARAYATHU HOUSE,
KANAKARI P.O.,
KOTTAYAM DISTRICT-686 632.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENT(S) :

1. THE SUB REGISTRAR,
KADUTHURUTHY, KADUTHURUTHY P.O.,
KOTTAYAM DISTRICT-686 604.
2. THE DISTRICT REGISTRAR (GENERAL) ,
KOTTAYAM, COLLECTORATE P.O.,
KOTTAYAM DISTRICT-686 002.
3. THE INSPECTOR GENERAL OF REGISTRATION,
DEPARTMENT OF REGISTRATION, VANCHIYOOR P.O.,
THIRUVANANTHAPURAM-695 035.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: A TRUE COPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER DATED 15.9.1998.
- EXT. P2: A TRUE COPY OF THE DEATH CERTIFICATE OF SRI. A.K.VARGHESE ISSUED BY THE ETTUMANOOR GRAMA PANCHAYAT DATED 1.11.2014.
- EXT. P3: A TRUE COPY OF THE WILL DATED 24.9.2007, EXECUTED BY SRI.A.K.VARGHESE.
- EXT. P4: A TRUE COPY OF THE LEGAL HEIRSHIP CERTIFICATE ISSUED BY THE TAHSILDAR, MEENACHIL DATED 27.3.2015.
- EXT. P5: A TRUE COPY OF THE DOCUMENT NO.1553/1/2010 DATED 30.6.2010 OF THE KADUTHURUTHY SUB REGISTRY.
- EXT. P6: A TRUE COPY OF THE TAX RECEIPT DATED 24.9.2014 ISSUED FROM THE KOTHANELLOOR VILLAGE OFFICE.
- EXT. P7: A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, KOTHANALLOOR DATED 7.11.2014.
- EXT. P8: A TRUE COPY OF THE ENCUMBRANCE CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 10.11.2014.
- EXT. P9: A TRUE COPY OF THE DRAFT PARTITION DEED EXECUTED BETWEEN THE PETITIONER AND JOSEPH JOSEPH DATED 13.11.2014.
- EXT. P10: A TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER UNDER THE RTI ACT DATED 23.1.2015.
- EXT. P11: COPY OF THE REPLY ISSUED BY THE 1ST RESPONDENT, UNDER THE RTI ACT DATED 18.2.2015.
- EXT. P12: A TRUE COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 25.2.2015.
- EXT. P13: A TRUE COPY OF THE NOTICE OF HEARING ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 4.3.2015.
- EXT. P14: A TRUE COPY OF THE COVERING LETTER DATED 18.3.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT. P15: A TRUE COPY OF THE ORDER NO.E2-506/15/KOTTAYAM DATED 9.4.2015 OF THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 30665 of 2015

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Dated this the 16th day of October, 2015

J U D G M E N T

The petitioner submits that she has approached the first respondent for registration of Ext.P9 partition deed. This partition deed is executed based on the unregistered will. The petitioner submits that Registrar told the petitioner that it could not be registered. Accordingly the petitioner has approached this Court.

2. The learned Government Pleader on instructions submits that the petitioner never approached the Registrar with any document for registration. The petitioner raised certain questions under Right to Information Act and that was duly replied. Therefore the petitioner's allegation that she has presented the document before the Registrar is unsustainable, raised with an ulterior motive.

3. This Court is of the view that since the registration of 'will' is not compulsory, if the petitioner presents the partition deed executed based on a registered 'will' and same otherwise is in

conformity with the Registration Act and Rules, the same shall be registered in accordance with the law on being satisfied that the petitioner is a competent to present the same.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE