

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 31751 of 2015 (T)

PETITIONER(S) :

**THE AL-AMEEN MEDICAL & CHARITABLE TRUST,
REPRESENTED BY ITS EXECUTIVE TRUSTEE,
ADV. T.P.M.IBRAHIM KHAN, UNITED LAW CHAMBERS, S.R.M.ROAD,
ERNAKULAM, KOCHI-682 018, (RESIDING AT ERNAKULAM).**

**BY ADVS.SRI.K.M.ABDUL MAJEED
SMT.ASHA ELIZABETH MATHEW**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR, ERNAKULAM,
KAKKANAD, KOCHI-682 030.**
- 2. THE SUB COLLECTOR,
FORT KOCHI, ERNAKULAM DISTRICT, KOCHI-682 001.**
- 3. THE SUB REGISTRAR,
ERNAKULAM, M.G.ROAD, KOCHI-682 011.**
- 4. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES (E) DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: A PHOTOSTAT COPY OF THE REGISTERED DOCUMENT NO.5202
DATED 16/12/1996 OF SUB REGISTRAR' OFFICE, ERNAKULAM.**
- EXT.P2: A PHOTOSTAT COPY OF THE LETTER NO.H3-17710/13
DATED 23/12/2013 ISSUED BY THE ADDITIONAL TAHSILDAR.**
- EXT.P3: A PHOTOSTAT COPY OF THE PROCEEDINGS NO.A2-20645/2014
DATED 23/04/2014 ISSUED BY THE FIRST RESPONDENT.**
- EXT.P4: A PHOTOSTAT COPY OF THE LETTER NO.A2-20645/15
DATED 07/05/2015 ISSUED BY THE FIRST RESPONDENT TO
THE SECOND RESPONDENT.**
- EXT.P5: A PHOTOSTAT COPY OF THE NOTIFICATION NO.N-10687/2015/K.DIS
DATED 07/08/2015 ISSUED BY THE SECOND RESPONDENT.**
- EXT.P6: A PHOTOSTAT COPY OF THE RELEVANT PAGE OF THE KERALA
GAZETTE NO.37 DATED 22/09/2015.**
- EXT.P7: A PHOTOSTAT COPY OF THE GAZETTE NOTIFICATION OF
S.R.O 698/2014 PUBLISHED VIDE G.O.(P) NO.188/2014/TD
DATED 14/11/2014 ISSUED BY THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 31751 of 2015

Dated this the 28th day of October, 2015

J U D G M E N T

Petitioner seeks the following reliefs before this Court:-

- (i) to call for the records relating to Exts.P1 to P7 and to issue a writ, direction or order, directing the third respondent to register the Sale Deed presented by the petitioner to his 11 cents of property comprised in Sy.No.121/1 of Ernakulam Village in Kanayannur Taluk in Ernakulam District on the basis of the fair value fixed as per Exts.P5 and P6 Notification dated 18.8.2015 by respondents 1 and 2 forthwith;
- (ii) to issue a declaration that Ext.P7 Notification, has no application for the registration of the petitioner's 11 cents of property comprised in Sy.No.121/1 of Ernakulam Village in Kanayannur Taluk in Ernakulam District in which the fair value have been fixed on 18.08.2015 as evidenced by Ext.P6 Notification, and as such the third respondent has no jurisdiction to fix the fair value for more than what has been declared by Ext.P6;

2. Petitioner submits that in view of Exts.P5 and P6 notifications fixing fair value under Section 28A of the Stamp Act,

that has to be followed for registering the fair value in relation to the property comprised in Sy.No.121/1 of Ernakulam Village in Kanayannur Taluk and not the enhanced value by the State as per Ext.P7 Government Order.

3. By virtue of the order of the Government, the fair value in relation to the property in Sy.No.121/1 of Ernakulam Village in Kanayannur Taluk has been fixed as per Ext.P5. This was on 7.8.2015. The Government, in fact, increased 50% of the fair value as per Ext.P7 on 14.11.2014.

4. The learned Government Pleader submits that the fixation as per Exts.P5 and P6 is based on the representation by the petitioner before the Government and it has been treated as a special case and it has no universal application in all cases.

5. It is to be noted that Ext.P5 notification was issued only on 7.8.2015 and the Government ought to have taken note of Ext.P7 Government Order while fixing the fair value. In that view of the

matter, it cannot be insisted that the petitioner should pay the fair value based on Ext.P7. The petitioner is justified in insisting for registering the document based on Exts.P5 and P6.

6. In that view of the matter, this writ petition is allowed. Accordingly, there shall be a direction to the third respondent register the document of the petitioner conveying the property situated in Sy.No.121/1 of Ernakulam Village in Kanayannur Taluk based on the fair value fixed as per Exts.P5 and P6.

A.MUHAMED MUSTAQUE,
Judge

MBS/

WP(C).NO. 31751 OF 2015

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