

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 32317 of 2015 (L)

PETITIONER(S):

**GOVINDANKUTTY, AGED 47 YEARS,
S/O.KARUNAKARAN NAIR, KURUVATH HOUSE,
PADDY P.O., THRISSUR DISTRICT.**

**BY ADVS.SMT.P.R.REENA,
SMT.SURYA BINOY.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REGISTRATION, SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. INSPECTOR GENERAL OF REGISTRATION,
O/O. INSPECTOR GENERAL OF REGISTRATION,
THIRUVANANTHAPURAM, PIN-695 001.**
- 3. DISTRICT REGISTRAR,
O/O. DISTRICT REGISTRAR, THRISSUR, PIN-680 003.**
- 4. SUB REGISTRAR, KODALY SUB REGISTRY,
PADY P.O., THRISSUR DISTRICT, PIN-680 699.**

BY GOVT. PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CIRCULAR ISSUED BY THE 2ND RESPONDENT DATED 13/09/2012.
- EXT.P2 COPY OF THE MEMO ISSUED BY THE 4TH RESPONDENT DATED 22/05/2015.
- EXT.P3 THE OBJECTION NOTE DATED 18/05/2015 ISSUED BY THE SUB-REGISTRAR, KODALY.
- EXT.P4 THE OBJECTION NOTE DATED 19/06/2015 ISSUED BY SUB-REGISTRAR, KODALY.
- EXT.P5 COPY OF THE JUDGMENT IN W.A. NO.1875/2015 DATED 21/08/2015.
- EXT.P6 COPY OF THE JUDGMENT IN WP(C).NO.28403/2015 DATED 18/09/2015.
- EXT.P7 COPY OF THE DOCUMENT DATED 17/10/2015 EXECUTED BY THRESSIA IN FAVOUR OF VARKEY.
- EXT.P8 COPY OF THE MEMO DATED 17/10/2015 ISSUED BY THE 4TH RESPONDENT.
- EXT.P9 COPY OF THE DECISION REPORTED IN 2002(1) KLT PAGE 330.
- EXT.P10 COPY OF THE JUDGMENT REPORTED IN 2010(1) KHC 581.
- EXT.P11 COPY OF THE JUDGMENT IN WP(C).NO.10468/2012 DATED 14/08/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.32317/2015

Dated this the 27th Day of October, 2015

J U D G M E N T

The petitioner is a document writer. He has approached this Court aggrieved by Exhibit P8 communication issued by the Sub Registrar, Kodaly in respect of a document presented by the petitioner.

2. The petitioner's case is that in the document presented by the him, it is mentioned that there is no encumbrance. However, on verification it was found that there was a liability to a bank. Therefore, the Sub Registrar informed the petitioner to correct the recitals in the document to the effect of showing that there is an encumbrance in respect of the property. The petitioner challenges Exhibit P8 on the ground that the 5th respondent has no such power to insist for inclusion of a recital in the manner in which it was directed in it.

3. This Court is of the view that even if there is an encumbrance it cannot be effaced by executing a registered deed. If at all any interest is created by mortgage or any other method that interest can only be extinguished in the manner known under law. Therefore, the Registering Authority is directed to register the document, if otherwise, it conforms with the Registration Act. Exhibit P8 is therefore, set aside.

The writ petition is disposed of as above. No costs.

Sd/-

(A.MUHAMED MUSTAQUE, JUDGE)