

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 36099 of 2015 (J)

PETITIONER(S) :

1. ASYA, AGED 50 YEARS,
W/O.MUHAMMED, MANKYATHIL HOUSE,
M.M.PARAMBA P.O, (VIA) KOYILANDY, KOZHIKODE DISTRICT.
2. N.C.MOIDEEN, AGED 61 YEARS,
S/O.KUTTY HASSAN, NATTAMPARACHALIL HOUSE,
M.M.PARAMBA P.O, (VIA) KOYILANDY, KOZHIKODE DISTRICT.
3. E.C.USMAN, AGED 48 YEARS,
S/O.KUNJIAYISHA, ENGERIKKUMCHALIL HOUSE, UNNIKULAM P.O.,
(VIA) KOYILANDY, KOZHIKODE DISTRICT.
4. SIDDIQUE, AGED 45 YEARS,
S/O.ABOOBACKER, ERAMPATTAMMAL HOUSE, M.M.PARAMBA P.O.,
KOZHIKODE DISTRICT.
5. K.P.ASHARAF, AGED 48 YEARS,
S/O.MARAKKAR KUTTY, KANHIRAPPARAMBIL HOUSE, THALAYAD,
KOZHIKODE DISTRICT.
6. N.K.SHAHIDA, AGED 41 YEARS,
W/O.ASHARAF, KANHIRAPPARAMBIL HOUSE, THALAYAD,
KOZHIKODE DISTRICT.
7. JAIFAR PJ, AGED 38 YEARS,
S/O.MOIDEEN KOYA, PUDUKKIDIPOYIL HOUSE, KINALUR P.O.,
KOYILANDY, KOZHIKODE DISTRICT.
8. V.M.JOHN, AGED 67 YEARS,
S/O.OUSEPH MARKOSE, VALAYIL HOUSE, THAMARASSERY P.O.,
KOZHIKODE DISTRICT.
9. KUNHELAM, W/O.JOHN,
VALAYIL HOUSE, THAMARASSERY P.O, KOZHIKODE DISTRICT.
10. RAJI MATHEW, AGED 46 YEARS,
W/O.MATHEW, KAKKAKOODUNKAL HOUSE, NILAMBOOR P.O.,
MALAPPURAM DISTRICT.

WP(C).No. 36099 of 2015 (J)

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11. K.M.MATHEW, AGED 55 YEARS,
KAKKAKOODUNKAL HOUSE, NILAMBOOR P.O.,
MALAPPURAM DISTRICT.
 12. ROSAMMA VARGHESE, AGED 52 YEARS,
W/O.VARGHESE, KAKKAKOODUNKAL HOUSE, NARIYANANI,
KANJIRAPPALLY, KOTTAYAM DISTRICT.
 13. MATHEW VARGHESE,
S/O.MATHEW, KAKKAKOODUNKAL HOUSE, NARIYANANI,
KANJIRAPPALLY, KOTTAYAM DISTRICT.
 14. JOSE MATHEW, AGED 51 YEARS,
W/O.MATHEW, KAKKAKOODUNKAL HOUSE, NARIYANANI,
KANJIRAPPALLY, KOTTAYAM DISTRICT.
 15. MERLIN JOSE,
W/O.JOSE MATHEW, NARIYANANI, KANJIRAPPALLY,
KOTTAYAM DISTRICT.
 16. K.V.JOSEPH,
S/O.VARKEY, KUMPALOLIL , WHITE HOUSE,
NADAKKAVU P.O., KOZHIKODE DISTRICT.
 17. MARY JOSEPH, W/O.JOSEPH,
WHITE HOUSE, NADAKKAVU P.O, KOZHIKODE DISTRICT.
 18. JIJESH G.JOSEPH,
S/O.JOSEPH, WHITE HOUSE, NADAKKAVU P.O.,
KOZHIKODE DISTRICT.
 19. AJESH TOM JOSEPH,
S/O.JOSEPH, WHITE HOUSE, NADAKKAVU P.O.,
KOZHIKODE DISTRICT.
 20. HOUSATH,
D/O.ABDUL REHMAN, ODAKUNDAMPOYIL HOUSE,
M.M.PARAMBA P.O - 673 574, KANTHALAD AMSOM,
KINALUR DESOM, KOYILANDI TALUK, KOZHIKODE DISTRICT.

BY ADVS.DR.GEORGE ABRAHAM
SRI.DOMINIC JOSE

RESPONDENT(S) :

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, TRIVANDRUM- 695 001.

WP(C).No. 36099 of 2015 (J)

- 2. DISTRICT COLLECTOR,
KOZHIKODE- 673 020.**
- 3. TAHSILDAR,
THAMARASSERY TALUK, CALICUT DISTRICT- 673 573.**
- 4. THE SUB - REGISTRAR, SUB REGISTRAR OFFICE,
THAMARASSERY, CALICUT DISTRICT- 673 573.**
- 5. THE SUB REGISTRAR,
SUB -REGISTRAR OFFICE, BALUSSERY,
CALICUT DISTRICT- 673 612.**
- 6. THE SUB - REGISTRAR, SUB REGISTRAR OFFICE,
CALICUT, CALICUT DISTRICT- 673 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE TITLE DEED NO.1095/14, IN FAVOUR OF THE 1ST PETITIONER.**
- P2: TRUE COPY OF THE TITLE DEED NO.361/1/2014 OF S.R.O BALUSSERY, IN FAVOUR OF THE 2ND PETITIONER.**
- P3: TRUE COPY OF THE TITLE DEED NO.1025/14, IN FAVOUR OF THE 3RD PETITIONER.**
- P4: TRUE COPY OF THE TITLE DEED NO . 211/1/2014, IN FAVOUR OF THE 4TH PETITIONER.**
- P4(A): TRUE COPY OF THE DOCUMENT NO.79/2014, IN FAVOUR OF THE 4TH PETITIONER.**
- P5: TRUE COPY OF THE TITLE DEED NO. 5327/2013, IN FAVOUR OF THE 5TH PETITIONER.**
- P6: TRUE COPY OF THE TITLE DEED NO.54/2014, IN FAVOUR OF THE 6TH PETITIONER.**
- P7: TRUE COPY OF THE TITLE DEED NO.73/2014, IN FAVOUR OF THE 7TH PETITIONER.**
- P8: TRUE COPY OF THE DOCUMENT NO. 12/2014 IN FAVOUR OF THE 8TH PETITIONER.**
- P9: TRUE COPY OF THE TITLE DEED NO.13/1/2014, IN FAVOUR OF THE 9TH PETITIONER.**
- P10: TRUE COPY OF THE DOCUMENT NO.5401/2013 IN FAVOUR OF BOTH 10TH AND 11TH PETITIONER.**
- P11: A COPY OF THE TITLE DEED NO.5362/2013, IN FAVOUR OF THE 12TH AND 13TH PETITIONERS.**
- P12: A COPY OF THE DOCUMENT NO.94/2014, IN FAVOUR OF THE 14TH AND 15TH PETITIONERS.**
- P13: A COPY OF THE DOCUMENT NO.908/2014, IN FAVOUR OF THE 16TH PETITIONER.**
- P14: A COPY OF THE DOCUMENT NO.907/2014, IN FAVOUR OF THE 17TH PETITIONER.**
- P15: A COPY OF THE DOCUMENT NO.910/2014, IN FAVOUR OF THE 18TH PETITIONER.**

WP(C).No. 36099 of 2015 (J)

**P16: A COPY OF THE TITLE DEED NO.906/2014, IN FAVOUR OF
THE 19TH PETITIONER.**

**P17: A COPY OF THE DOCUMENT NO.955/2014 IN FAVOUR OF
THE 20TH PETITIONER.**

P18: A COPY OF THE JUDGMENT IN W.P.(C).NO.34777/2011.

**P19: A COPY OF THE GOVERNMENT ORDER GO(RT) NO.147/2015/REVENUE
DATED 17.04.2015.**

P20: A COPY OF THE JUDGEMENT IN W.P.(C).NO.19461/2015 DATED 08.09.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 36099 of 2015

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Dated this the 21st day of December, 2015

J U D G M E N T

The petitioner approached this Court for following reliefs:

“i. to issue a Writ of Mandamus; or any other appropriate writ, order or direction, directing the respondents 4 to 6 to permit the petitioners to transfer their immoveable properties to persons of their choice.

ii. to issue a Writ of Mandamus; or any other appropriate writ, order or direction, directing the respondents to declare that the petitioners are free to transfer their immoveable properties without insisting any permission from respondents 1 to 3.

iii. to grant such other and further reliefs as this Hon'ble Court may consider just and proper in the facts and circumstances of the case.”

2. It appears that land covered by the instrument are exempted land. Therefore the registering authority refused to register the instrument.

3. In fact this Court in a judgment in batch of writ petitions produced as Ext.P18, held that there is no impediment in transferring whole or any part of the exempted land. However, the transferee has to use the exempted land for the purpose of registration, exemption is granted and in the event, any violation is found out, the proceedings can be reopened to

include the land in the account of the original declarant in terms of ceiling proceedings. Therefore if the instrument otherwise satisfies with the Registration Act and Rules, without prejudice to the right of the State to proceed against the property under ceiling proceedings in case it is found out that exemption has been violated, the instrument shall be registered.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE