

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 36402 of 2015 (A)

PETITIONER:

**HELAN JESINTHA, W/O. AROGYASWAMI,
RESIDING AT CHORAPPARA,
KOCHIPARA POST, VADAKARAPPATHI VILLAGE,
PALAKKAD DISTRICT, PIN - 678 557.**

BY ADV. SRI.VINOD KUMAR.C

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
CIVIL STATION, PALAKKAD - 678 001.**
- 2. SUB REGISTRAR, SUB REGISTRAR OFFICE,
KOZHINJAMPARA, PALAKKAD - 678 555.**

***ADDL. R3 & R4 IMPLEADED**

- 3. KANAKAPPAN, S/O.DAIVASAHAYAM,
IDATHAR HOUSE, ANJALI STREET,
MENON PARA POST, VADAKARPATHY, PALAKKAD - 678 556.**
- 4. LEEMA AROGYAMERY, D/O.KANAKAPPAN,
IDATHAR HOUSE, ANJALI STREET, MENON PARA POST,
VADAKARPATHY, PALAKKAD - 678 556.**

**ADDL. R3 & R4 ARE IMPLEADED AS PER ORDER
DATED 3.12.2015 IN IA.17522/2015.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
ADDL. R3 & R4 BY ADV. SRI.C.P.PRADEEP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 - TRUE COPY OF THE SETTELMENT DEED NO. 1019/1981 OF SR9 KOZHINJAMPARA DT.03.4.1981.
- EXT.P2 - TRUE COPY OF SALE DEED NO. 1937/2007 DT. 07.11.2007.
- EXT.P3 - TRUE COPY OF ENCUMBRANCE CERTIFICATE DT. 23.7.2015.
- EXT.P4 - TRUE COPY OF SETTLEMENT DEED NO. 3102/2011 DT. 25.12.2011.
- EXT.P5 - TRUE COPY OF UN REGISTERED SALE DEED DT. 16.7.2015.
- EXT.P6 - TRUE COPY OF CANCELLATION DEED NO. 1393/1985 DT. 10.5.1985.

RESPONDENT(S)' EXHIBITS:

- EXT. R3(A) : TRUE COPY OF THE PATTA DATED 15.10.1977 ISSUED BY THE LAND TRIBUNAL, OTTAPALAM.
- EXT. R3(B) : TRUE COPY OF THE WILL DATED 10.5.1985 EXECUTED BY ANTHONI AMMAL.
- EXT. R3(C) : TRUE COPY OF THE BASIS LAND TAX RECEIPT ISSUED BY VILLAGE OFFICE, VADAKARAPATHY DATED 5.6.2009.
- EXT. R3(C1) : TRUE COPY OF THE BASIS LAND TAX RECEIPT ISSUED BY VILLAGE OFFICE, VADAKARAPATHY DATED 9.10.2012.
- EXT. R3(C2) : TRUE COPY OF THE BASIS LAND TAX RECEIPT ISSUED BY VILLAGE OFFICE, VADAKARAPATHY DATED 17.9.2014.
- EXT. R3(C3) : TRUE COPY OF THE BASIS LAND TAX RECEIPT ISSUED BY VILLAGE OFFICE, VADAKARAPATHY DATED 20.11.2014.
- EXT. R3(D) : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 29.9.2014.
- EXT. R3(D1) : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 17.4.2010.
- EXT. R3(E) : TRUE COPY OF THE BASIS TAX REGISTER PERTAINING TO THE PROPERTY IN BLOCK NO.24 IN VADAKARAPATHY VILLAGE, CHITTUR TALUK.
- EXT. R3(F) : TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER VADAKARAPATHY DATED 21.2.2015.
- EXT. R3(G) : TRUE COPY OF THE POSSESSION CERTIFICATE DATED 21.2.2015 ISSUED TO THE 4TH RESPONDENT.
- EXT. R3(H) : TRUE COPY OF THE LETTER NO.303/14 DATED 8.12.2014 OF THE VILLAGE OFFICER TO THE TAHSILDAR.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 36402 of 2015

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Dated this the 11th day of December, 2015

J U D G M E N T

The petitioner approached this Court on account of the refusal to register a sale deed executed by him.

2. The petitioner traced out his title to the property based on Ext. P1 settlement deed executed by his mother-in-law of the petitioner. The petitioner presented the sale deed on the strength of the above settlement deed. The registering authority refused to act upon the request on the ground that a cancellation deed had been executed by the mother in law of the petitioner.

3. The petitioner submits that he has availed a loan and no one has right over the property. The party respondents who were impleaded subsequently would submit that the mother in law of the petitioner is no more and she had executed a will bequeathing the entire property in favour of the third respondent. He also points out that the transfer of registry

effected in their favour. It is submitted that they are paying the basic tax. R3 series are receipt of the payment of basic tax. They have also produced the possession certificate.

4. The petitioner's case is that the cancellation deed has no validity and therefore he is entitled to present the document. It is submitted that in terms of Registration Act and Rule, it is not for the Registrar to determine whether the petitioner has right or not. He has to register the document if otherwise it conforms with the Registration Act and Rules.

5. This Court is of the view that the registering authority cannot ignore the competency of a person to register the document. The Registration Act and Rules insists that competency of the person has to be satisfied by the registering authority for registering a document. The right of the petitioner to present a document certainly would depend upon the validity of the cancellation. It is to be noted that cancellation deed was executed in the year 1985. It is also to be noted that the transfer of registry has been effected in favour of the party respondent. In such a situation it is not safe to conclude the

cancellation deed is invalid. The validity of cancellation deed can be adjudged only by a civil court.

6. In such a circumstances, the Registrar is justified in refusing to register the document unless the dispute is resolved through civil court. It is submitted by the party respondents they have already filed a suit. Therefore the registering authority is directed to register the document if the petitioner is able to produce any order from the civil court affirming his title to the property.

With the above liberty, the writ petition is disposed of.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE