

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 36649 of 2015 (E)

PETITIONER(S):

1. ARUMUGHA SUNDARAM, AGED 57 YEARS,
S/O.MUTHUSWAMY KOUNDER, GOPALAPURAM KALAM,
KOZHIPATHY VILLAGE, CHITTUR TALUK, PALAKKAD.
2. MAHESWARI, AGED 54 YEARS,
W/O.SOMASUNDARAM, MUVALAKAPUDUR KALAM,
MUTHALAMADA VILLAGE, CHITTUR TALUK, PALAKKAD.
3. THANKARAJ, AGED 53 YEARS,
S/O.KALIYAPPAN KOUNDER, GOPALAPURAM, MANNUR,
POLLACHI TALUK, COIMBATORE, TAMILNADU.
4. MOHANDAS, AGED 46 YEARS,
S/O.VELUSWAMY KOUNDER, GOPALAPURAM, MANNUR,
POLLACHI TALUK, COIMBATORE, TAMILNADU.
5. GOVARDHANAGIRI,
S/O.MUTHUKRISHNASWAMY KOUNDER,
GOPALAPURAM, MANNUR, POLLACHI TALUK,
COIMBATORE, TAMILNADU.
6. MANI MEKALAI, AGED 52 YEARS,
W/O.MURUKESH, EASWARAN KOIL VEETHI,
KOTTAMPATHY VILLAGE, POLLACHI TALUK,
COIMBATORE DISTRICT, TAMILNADU.
7. RAJEESWARAN, AGED 46 YEARS,
S/O.MUTHUSWAMY KOUNDER, GOPALAPURAM,
RAMAPATTANMMA VILLAGE, POLLACHI TALUK,
COIMBATORE, TAMILNADU.
8. GEETHA SWAROOP, AGED 46 YEARS,
W/O.ESWARAN, ESWARAN KOIL VEETHI,
KOTTAMPATHY VILLAGE, POLLACHI TALUK,
COIMBATORE, TAMILNADU.

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9. RADHAMANI, AGED 45 YEARS,
W/O.LATE KANAKAVEL, VELS FARM, ANAKETTIMEDU,
GOVINDAPURAM P.O., MUTHALAMADA NO.1 VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT.

ALL PETITIONERS ARE REP. BY THEIR POWER OF
ATTORNEY SENTHILVEL, S/O.NALLIMUTHU KOUNDER @
CHINNA KOUNDER, AGED 64 YEARS, HOUSE NO.XII/55,
ANAKETTIMEDU, MUTHALAMADA NO.1 VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REGISTRATION, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN -695 001.
2. THE SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR,
KOLLENGODE, PALAKKAD, PIN- 678 506.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1:** A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, MUTHALAMADA IN RESPECT OF THE PROPERTIES HELD BY THE 1ST PETITIONER.
- EXHIBIT-P1(A):** A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, MUTHALAMADA IN RESPECT OF THE PROPERTIES HELD BY THE 2ND PETITIONER.
- EXHIBIT-P1(B):** A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, MUTHALAMADA IN RESPECT OF THE PROPERTIES HELD BY THE 3RD PETITIONER.
- EXHIBIT-P2:** A TRUE COPY OF THE ENCUMBRANCE CERTIFICATE ISSUED BY THE SRO KOLLENGODE IN RESPECT OF THE PROPERTY HELD BY THE FIRST RESPONDENT.
- EXHIBIT-P3:** A TRUE COPY OF THE REPORT NO.X3-3262/07/FPB OF THE FINGER PRINT EXPERT.
- EXHIBIT-P4:** A TRUE COPY OF THE REPORT NO.X3-3310/07/FPB OF THE FINGER PRINT EXPERT.
- EXHIBIT-P5:** A TRUE COPY OF THE JUDGMENT IN C.C.NO.467/2007 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR.
- EXHIBIT-P6:** A TRUE COPY OF THE JUDGMENT IN C.C.NO.469/2007 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR.
- EXHIBIT-P7:** A TRUE COPY OF THE REPRESENTATION DATED 29.06.2015 SUBMITTED BY THE PETITIONERS BEFORE THE SRO, KOLLENGODE.
- EXHIBIT-P8:** A TRUE COPY OF THE ORDER DATED NOVEMBER 21, 2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.36649 of 2015

Dated this the 3rd day of December, 2015

J U D G M E N T

The petitioner has approached the 2nd respondent requesting to cancel the entry relating to the lease agreements bearing Nos. 2000/2005 and 2001/2005 in the records of the S.R.O. Kollengode.

2. The petitioner refers to the judgment of the criminal court produced as Ext.P5, which shows, the lease deed has been created by forgery and persons relating to it are convicted by the criminal court.

3. The petitioner's request has been turned down by Ext.P8 stating that the petitioner has not produced any civil court decree to cancel those entries.

4. If the Registrar has a power to register the documents, certainly he has the power to cancel the registration or to undo certain act which has been done illegally. It is not a requirement that person who aggrieved should obtain a decree from the civil court. The Registrar can certainly rely upon Criminal court judgment as a piece of evidence while conducting

an enquiry as to the request of the petitioner.

5. Therefore, this Court is of the view that after adverting to the nature of the order, passed by the criminal court and also conducting such enquiry and also hearing the petitioner and persons connected with the lease agreement, the 2nd respondent shall take an independent decision, within a period two months from the date of receipt of a copy of this judgment. Based on the decision, necessary action shall be taken in accordance with law. It is made clear that the notwithstanding the fact that the registration of lease was made before the Sub Registrar, Palakkad, the Sub Registrar Kollengode shall take a decision in this matter in the light of the observation as above. It is also made clear that Sub Registrar, Kollengode need not insist the cancellation of lease agreement recorded with Sub Registrar, Palakkad for cancelling the encumbrance in the records maintained by him.

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/