

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 38524 of 2015 (M)

PETITIONER(S):

1. SARASWATHI AMMA, AGED 64 YEARS,
D/O.PURUSHOTHAMA BHAT AND
W/O.K.VENKETRAMANA BHAT,
RESIDING AT KATTATHADKA,
PUTHIGE POST-671 321, KASARAGOD DISTRICT.
2. JAYAPRAKASH, AGED 39 YEARS,
S/O.SARASWATHI AMMA & K.VENKETRAMANA BHAT,
RESIDING AT KATTATHADKA, PUTHIGE POST - 671 321,
KASARAGOD DISTRICT.
3. SREEKRISHNA.K, AGED 38 YEARS,
S/O.SARASWATHI AMMA & K.VENKETRAMANA BHAT,
RESIDING AT KATTATHADKA, PUTHIGE POST - 671 321,
KASARAGOD DISTRICT.
4. NATARAJ BHAT, AGED 36 YEARS,
S/O.SARASWATHI AMMA & K.VENKETRAMANA BHAT,
RESIDING AT KATTATHADKA, PUTHIGE POST - 671 321,
KASARAGOD DISTRICT.

**BY ADVS.SRI.D.KRISHNA PRASAD
SMT.MINI V.MENON
SRI.P.VISHNU PRASAD**

RESPONDENT(S):

1. THE SUB REGISTRAR, SUB REGISTRY OFFICE,
BADIADKA, BADIADKA POST-671 541,
KASARAGOD DISTRICT.
2. PRAMEELA K., AGED 29 YEARS,
D/O.KARIYA AND W/O.HARISCHANDRA
RESIDING AT KATTATHADKA, PUTHIGE POST-671 321,
KASARAGOD DISTRICT.

R1 BY GOVERNMENT PLEADERSRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 38524 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF THE PARTITION DEED BEARING NO.1305/1931
DATED 29/8/1931 OF THE S.R.O., KASARAGOD.**
- EXT.P1(A). ENGLISH TRANSLATION OF EXT.P1.**
- EXT.P2. TRUE COPY OF THE SALE DEED DATED 13/2/2015 EXECUTED BY THE
PETITIONERS IN FAVOUR OF 2ND RESPONDENT.**
- EXT.P2(A). ENGLISH TRANSLATION OF EXT.P2**
- EXT.P3. TRUE COPY OF THE OBJECTIONS BEARING NO.X.N.DIS-13/5/2015
DATED 13/5/2015 BY THE 1ST RESPONDENT SUB REGISTRAR.**
- EXT.P3(A). ENGLISH TRANSLATION OF EXT.P3.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P(C)No.38524 of 2015

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Dated this the 18th day of December, 2015

JUDGMENT

The petitioners presented Ext.P2 document for registration. This has been rejected by the Sub Registrar, Badiadka stating that no document is seen produced to show the vesting of janmam right in respect of the property sought to be registered. It is also stated that property is obtained as used for viniyogas of the family diety and no documents have been produced to show that vesting of the right transferred to the petitioners.

2. The competency has to be examined in terms of Registration Act/Registration Rules is as a right to present a document. Whether presenter of the document has a full fledged right or possessory right is not a question to be determined for the registration of property. The nature of ownership is not a precondition. The right of the transferor alone can be conveyed, and whatever be the mode of expression of right, unless such right is attached with transferor, transferee will not get any right. The right that is available to the transferor alone could be conveyed to the transferee. The nomenclature could be decisive

as to the stamp duty payable, if there is any clandestine way of suppression about the actual right being conveyed. Therefore, an enquiry can be conducted to the limited extent of examining the document only to find out the right of the transferor for the purpose of determining stamp duty. If competency is otherwise established the claim of the transferor that he has full ownership is immaterial for the registering authority for the purpose of registration.

3. In that view of the matter, this Court is of the view, considering the nature of objection raised, it is beyond the scope of enquiry under the Registration Act.

4. In that view of the matter, the Sub Registrar, Badiadka is directed to register the document in accordance with law on representation of the document.

The writ petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE,
JUDGE