

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 15TH DAY OF JULY 2016/24TH ASHADHA, 1938

WP(C).No. 17141 of 2016 (P)  
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PETITIONER(S):  
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SANJUDAS N.S.,  
MANAGING DIRECTOR, SANROYAL BUILDERS &  
CONTRACTORS PRIVATE LTD., ROHINI BHAVAN,  
INDIRA NAGAR, PEROORKADA P.O.,  
THIRUVANANTHAPURAM - 695 005.

BY ADVS.SRI.LINDONS C.DAVIS  
SMT.E.U.DHANYA  
SRI.RAJITH DAVIS

RESPONDENT(S):  
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1. STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY,  
TAX DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
2. INSPECTOR GENERAL OF REGISTRATION,  
VANCHIYUR, THIRUVANANTHAPURAM - 695 035.
3. DISTRICT REGISTRAR (GENERAL),  
CHEMBUKKAVU P.O., THRISSUR - 680 020.
4. SUB REGISTRAR,  
MUNDUR P.O., THRISSUR - 680 541.

BY GOVERNMENT PLEADER SMT.JOSEPH GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 15-07-2016, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

msv/

WP(C) .No. 17141 of 2016 (P)

APPENDIX

PETITIONER(S) ' EXHIBITS

- P1 TRUE COPY OF SALE DEED DATED 01-04-2016 EXECUTED BY THE  
PETITIONER IN FAVOUR OF BOSE VARGHESE
- P2 TRUE COPY OF THE TOKEN REGISTRATION ALONG WITH  
ACKNOWLEDGEMENT DATED 01-04-2016
- P3 TRUE COPY OF THE ORDER NO. C135/2016 OF 4TH RESPONDENT

RESPONDENT(S) ' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

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**P.B.SURESH KUMAR, J.**

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**WP(C).No.17141 of 2016-P.**

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Dated this the 15<sup>th</sup> day of July, 2016.

**J U D G M E N T**

The petitioner is the Managing Director of a company. The company of the petitioner entered into an agreement with one Bose Varghese for sale of 4.08% of undivided share in a property of the company. When the agreement was presented for registration, the fourth respondent refused to register the same on the ground that Bose Varghese has not subscribed his signatures in the agreement. Ext.P3 is the communication issued by the fourth respondent to the petitioner. In Ext.P3, it is stated that the document can be registered only if the same is signed by the buyer also. According to the petitioner, there is no requirement in law that the buyer should also subscribe his signatures in the agreement and therefore, the conduct of the fourth respondent in refusing registration of the document is unsustainable. The petitioner, therefore, challenges Ext.P3 communication issued by the fourth respondent in the writ

petition. He also seeks direction to the fourth respondent to register the agreement.

2. Heard the learned counsel for the petitioner.

3. Ext.P1 is the photocopy of the agreement for sale presented by the petitioner for registration before the fourth respondent. Ext.P1 is styled as a document executed by both the seller as also the buyer. The opening paragraph of Ext.P1 reads thus:

"This agreement is executed on 01/04/2016 on this First day of April Two Thousand and Sixteen at Thrissur.

BY M/s Sanroyal Builders & Contractors Private Limited (PAN:AAW CS3106N), a company duly incorporated under the Companies Act 1956 having its corporate office at Rohini Bhavan, Indira Nagar, Peroorkada P.O., Pin:695005 represented by its Present Managing Director Sanjudas N.S. (PAN: CKNPS6594J), Aged 36 Thirty Six years, business, S/o Narayanan Narayna das residing at House No:5/417 of Thiruvananthapuram Municipal Corporation, Rohini Bhavan, Peroorkada P.O., Pin: 695005, Peroorkada Desom and Village, Thiruvananthapuram Thaluk and District (hereinafter referred to as the OWNER which expression shall wherever the context, admits, mean and include his heirs, successors, nominees and assignees of the FIRST PART), TO AND IN FAVOUR OF Bose Varghese (PAN No.AMTPBO254E), AGED 38 Thirty Eight Years, Business, S/o Thanikkal Varghese Residing at House No: 234/53 of Ayyanthole Gramapanchayath, Thanikkal House, Ayyanthole P.O., Pin:680003, Ayyanthole Desom, Ayyanthole Village, Thrissur Thaluk, Thrissur District (hereinafter

referred to as the PURCHASER which expression shall wherever the context, admits, mean and include his heirs, successors, nominees and assignees of the OTHER PART).

Ext.P1 contains the photograph of Bose Varghese. The terms of Ext.P1 agreement creates rights and obligations on both the seller and the buyer. The learned counsel for the petitioner submitted that there is no provision in the Registration Act and the Rules made thereunder which authorises the sub registrar to refuse registration of documents of this nature.

4. Though the Registration Act does not contain any specific provision dealing with the circumstances under which the Registrar can refuse to register a document, Section 71 of the Act indicates beyond doubt that the Registrar has the power to refuse registration in appropriate cases. Section 71 of the said Act reads thus:

**"71. Reasons for refusal to register to be recorded:-** (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2., and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

(3) No registering officer shall accept for registration any document involving transfer of property including contract for sale of immovable property belonging to or vested in the Government of Kerala or public sector undertakings operating in the State or local self Government institutions unless it is accompanied by a no objection certificate issued by an officer authorised by the State Government in this behalf.”

Rule 191 of the Registration Rules (Kerala) stipulates some of the circumstances under which the registration of a document can be refused by the Registrar. This Court has held in **Noble John v. State of Kerala** (2010(3) KLT 914) that the circumstances stipulated in Rule 191 is not exhaustive and the Registrar can refuse registration in appropriate other cases as well.

5. As far as the present case is concerned, as indicated above, the agreement sought to be registered is an agreement creating mutual rights and obligations. It is styled as an agreement executed by the seller and the buyer. The photograph of the buyer is affixed in the document. The buyer has not subscribed his signatures in the document. In other words, the document presented for registration is an incomplete document. Further, it is a case where the executing party does not appear before the Registrar as required by Section 34 of the

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Registration Act. Rule 191(VII) empowers the Registrar to refuse registration, if the executing party does not appear before the Registrar. Admittedly, the buyer has not appeared before the Sub Registrar for registration. In the circumstances, the fourth respondent is perfectly justified in refusing registration of the document. The writ petition, therefore, lacks merit and the same is, accordingly, dismissed.

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**Sd/-  
P.B.SURESH KUMAR,  
JUDGE.**

**Kvs/-**

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