

Kerala High Court

Annakutty vs The Sub Registrar on 16 June, 2017

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 8TH DAY OF NOVEMBER 2017/17TH KARTHIKA, 1939

WP(C).No. 28948 of 2017 (P)

PETITIONER(S):

1. ANNAKUTTY,
W/O.MATHEW, ELUKKUNNEL HOUSE, KANCHIYAR P.O.,
IDUKKI DISTRICT, PIN-685511.
2. SHAILA ,
D/O.MATHEW, ELUKKUNNEL HOUSE, KANCHIYAR P.O.,
IDUKKI DISTRICT, PIN-685511.
3. JAMES,
S/O.MATHEW, ELUKKUNNEL HOUSE, KANCHIYAR P.O.,
IDUKKI DISTRICT, PIN-685511.
4. ALICE SHAIJAN,
W/O.SHAIJAN, ELUKKUNNEL HOUSE, KANCHIYAR P.O.,
IDUKKI DISTRICT, PIN-685511.
5. JIMMY GEORGE,
S/O.DOMINIC, ELUKKUNNEL HOUSE, KANCHIYAR P.O.,
IDUKKI DISTRICT, PIN-685511.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENT:

THE SUB REGISTRAR,
THE SUB REGISTRY OFFICE, KATTAPPANA,
IDUKKI DISTRICT, PIN-685508.

BY SENIOR GOVERNMENT PLEADER SMT K.R.DEEPA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-11-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.V.

WP(C).No. 28948 of 2017 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE RELEASE DEED DATED 16.06.2017.

EXHIBIT P2 TRUE COPY OF THE RECEIPT DATED 16.06.2017.

RESPONDENT(S)' EXHIBITS NIL

/TRUE COPY/

K.V.

P.S.TO JUDGE

K.VINOD CHANDRAN, J.

W.P.(C).No. 28948 of 2017

Dated this the 8th day of November, 2017

JUDGMENT

The petitioner is aggrieved with the refusal of the Sub Registrar to register Ext.P1 deed. The refusal as disclosed from the statement filed by the first respondent is for reason of fourth respondent having executed the document on behalf of herself and on behalf of her two minor children for reason of the father having been deceased. The learned government pleader submits that it is only by an abundant caution that the Deed was refused to be registered; concerned with the interest of the minor children.

2. It is to be noted that the Sub Registrar is not conferred with any such authority, to refuse registration, by reason of the interest transferred, being inclusive of the minor's interest. It is W.P.(C) No.28948/2017 - : 2 :-

also to be noticed that the settled position is that if at all a transfer has been effected without sanction from the Court, then the minors would have the right to challenge it after attaining majority. It is also pertinent to note that in Paul v. Biju (2012 (1) KLT SN 71) the father and the natural guardian of christian minors were held to be competent to alienate their properties, for their welfare, as a prudent man would do and no previous sanction of the Court is necessary for such

alienations. In the present case, the father is not alive and in such circumstances, the mother, the guardian of the children can transfer the property for the benefit of their minor children. In such circumstances, the Sub Registrar shall register the document if it is other wise in order.

The writ petition is disposed of as above.

Sd/-

K.VINOD CHANDRAN JUDGE al/-

True copy P.S to Judge