

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 18TH DAY OF JUNE 2020 / 28TH JYAISHTA, 1942

WP(C).No.19020 OF 2019(B)

PETITIONER:

BABUKUTTAN, AGED 56 YEARS, S/O. PARAMESWARAN
PILLAI, KAVUMPARAMBATHU VEEDU, ALAMKOTTU MURI,
PANGAPPARA VILLAGE, THIRUVANANTHAPURAM.

BY ADVS.

SRI.G.SUDHEER

SRI.R.HARIKRISHNAN (H-308)

RESPONDENTS:

- 1 REGISTRATION INSPECTOR GENERAL
OFFICE OF THE INSPECTOR GENERAL, VANCHIYOOR,
THIRUVANANTHAPURAM-695 035
- 2 THE SUB REGISTRAR,
SUB REGISTRAR'S OFFICE, KAZHAKUTTOM,
THIRUVANANTHAPURAM-695 022
- 3 ADDL R3, RADHAMMA, D/O PARUKKUTTY AMMA,
KAVUVILA HOUSE, ALAMLOTTU MURIM, PANGAPPARA
VILLAGE, THIRUVANANTHAPURAM-695 581
- 4 ADDL R4, KRISHNANKUTTY NAIR,
S/O PARUKKUTTY AMMA, KAVUVILA HOUSE, ALAMKOTTU
MURI, PANGAPPARA VILLAGE, THIRUVANANTHAPURAM-
695 581
- 5 ADDL R5, SOMAN NAIR,
S/O.PARUKUTTY AMMA, KAVUVILA HOUSE, ALAML-
KOTTU MURI, PANGAPPARA VILLAGE,
THIRUVANANTHAPURAM-695 581

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- 6 ADDL R6, KESAVAN NAIR,
S/O PARUKUTTY AMMA, KAVUVILA HOUSE, ALAMKOTTU
MURI, PANGAPPARA VILLAGE, THIRUVANANTHAPURAM-
695 581
- 7 ADDL R7, ANANTHAVALLY, W/O LATE NANUKUTTAN
NAIR,
KAVUVILA HOUSE, ALAMKOTTU MURI, PANGAPPARA
VILLAGE, THIRUVANANTHAPURAM-695 581
- 8 ADDL R8, ANIL KUMAR,
S/O LATE NANUKUTTAN NAIR, KAVUVILA HOUSE,
ALAMKOTTU MURI, PANGAPPARA VILLAGE,
THIRUVANANTHAPURAM-695 581
- 9 ADDL R9, ARUN KUMAR,
S/O.LATE NANUKUTTAN NAIR, KAVUVILA HOUSE,
ALAMKOTTU MURI, PANGAPPARA VILLAGE,
THIRUVANANTHAPURAM-695 581
- 10 ADDL R10, ASHA,
D/O.LATE NANUKUTTAN NAIR, KAVUVILA HOUSE,
ALAMKOTTU MURI, PANGAPPARA VILLAGE,
THIRUVANANTHAPURAM-695 581
ADDL R3 TO R10 ARE IMPEADED AS PER ORDER
DATED 25-07-2019 IN IA 1/2019.

S GOPINATHAN SR GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18.06.2020, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 18th day of June 2020

The petitioner, Babukuttan, claims title based on a settlement deed executed by his mother Parukutty Amma in respect of the property covered by Ext.P1 deed. The property situated in Kazhkuttom, Re.Sy.No.176/7 of Pangappara Village. The deed of settlement was executed in the year 1995.

2. Thereafter, there was a partition among the petitioner and others in respect of the ancestor's property devolved upon them. The partition deed was executed in the year 2000. In that deed, the petitioner's other siblings were made party. They acknowledged the execution of the settlement deed in favour of the petitioner.

3. The petitioner came to know about execution of the cancellation deed, that was executed by his mother in the year 1997, only in 2018 much long after the execution of the cancellation deed. Immediately, on communicated about such execution of the

cancellation deed, the petitioner approached the competent authority with a complaint. The petitioner appears to have been employed for a long period in Gulf Countries. He returned to his native place only in the year 2011. The petitioner's request for cancellation was considered by the Registration Inspector General, Trivandrum. The Registration Inspector General, though legally was of the view that the cancellation of the deed can be done only bilaterally, advised the petitioner to approach highest Court in the State. This is how the petitioner approached this Court.

4. Once in execution of settlement deed is admitted, it cannot be cancelled unilaterally. The remedy of such persons to cancel a deed is to invoke provisions under the Specific Reliefs Act by approaching Civil Court. The unilateral execution of a deed would put hurdle on enjoyment of civil rights of the parties based on the original deed executed in his favour. The public authority should not act, on the unilateral execution of the deed, while discharging their duties, unmindful about the consequence that may

likely to arise from such registration.

5. This Court in several judgments held that the Registrar cannot register the unilateral execution of a cancellation deed. In such circumstances, I have to allow this writ petition. Accordingly, this writ petition is allowed by ordering the Sub-Registrar to revoke the registration of the cancellation deed executed as per Ext.P6. It shall be done within a period of one month. Necessary entry shall be made showing that the cancellation deed has been revoked as per the order of this Court. A fresh encumbrance certificate shall be issued without showing the details of registration of the cancellation deed.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

PR

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF SALE DEED NO. 392/95 OF KAZHAKUTTOM SUB REGISTRY OFFICE DATED 1.2.1995 EXECUTED BY PARUKUTTY AMMA IN FAVOUR OF PETITIONER.
- EXHIBIT P2 TRUE COPY OF THE LAND TAX DATED 6.5.2019 ISSUED BY THE VILLAGE OFFICER, PANGAPPARA VILLAGE.
- EXHIBIT P3 TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, PANGAPPARA TO THE PETITIONER DATED 12.7.2018.
- EXHIBIT P4 TRUE EXTRACT OF THANDAPER ACCOUNT BOOK.
- EXHIBIT P5 TRUE COPY OF THE CERTIFICATE ENUMBRANCE ON PROPERTY DATED 12.7.2018 ISSUED BY THE REGISTRAR, KAZHAKUTTOM REGISTRY.
- EXHIBIT P6 TRUE COPY OF THE CANCELLATION DEED NO. 3632/97 EXECUTED BY PARUKUTTY AMMA DATED 29.10.1997.
- EXHIBIT P7 TRUE COPY OF THE PARTITION DEED NO. 938/2000 DATED 23.3.2000 EXECUTED BY PARUKUTTY AMMA AND OTHERS.
- EXHIBIT P8 TRUE COPY OF THE PETITION DATED 20.07.2018 SUBMITTED BEFORE THE INSPECTOR GENERAL OF REGISTRATION, THIRUVANANTHAPURAM.

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EXHIBIT P9

**TRUE COPY OF THE REPLY DATED 31.5.2019
SENT BY THE INSPECTOR GENERAL OF
REGISTRATION, THIRUVANANTHAPURAM TO
THE PETITIONER.**