

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 14TH DAY OF FEBRUARY 2018 / 25TH MAGHA, 1939

WP(C) .No. 21061 of 2017

PETITIONER:

M. MAHADEVAN,
S/O. LATE T. MAHADEVAN,
GOMATHY VILASOM,
THYCAUD,
THIRUVANANTHAPURAM -690152.

BY ADVS.SRI.P.R.VENKETESH
SRI.G.KEERTHIVAS

RESPONDENTS:

1. THE DISTRICT REGISTRAR,
THIRUVANANTHAPURAM PIN-655001.
2. THE SUB REGISTRAR,
CHALA SUB REGISTRAR'S OFFICE,
THIRUVANANTHAPURAM PIN-655001.

BY GOVERNMENT PLEADER SRI.B.VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-02-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

EL

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: TRUE COPY OF PARTITION DEED DOCUMENT
NO.107/2016 AT THE SRO, CHALA,
THIRUVANANTHAPURAM

EXHIBIT P2: TRUE COPY OF THE RECTIFICATION DEED

EXHIBIT P3: TRUE COPY OF THE JUDGMENT IN 2012(3) KLT 194

RESPONDENT(S) ' EXHIBITS

NIL

TRUE COPY

P.S. TO JUDGE

EL

A. MUHAMED MUSTAQUE, J.

W.P. (C) No.21061 of 2017

Dated this the 14th day of February, 2018

J U D G M E N T

The petitioner presented a rectification deed before the 2nd respondent-Sub Registrar. The Sub Registrar objected to register it stating that the rectification deed is not a deed of correction but is a partition of the property in different form.

2. This Court passed an interim order on 13.07.2017 to register the rectification document provisionally. It appears that pursuant to the said interim order, the document was not registered. The respondents filed an application to vacate the interim order.

3. The question is whether the deed can be registered as a rectification deed. It is to be noted that it is a partition deed within the family. One of the beneficiaries of the partition deed, the sister of the petitioner namely, Smt.Gomathy was not joined in the partition deed as she was out of station. A property was also set apart for her share. Noting certain

mistakes crept in the partition deed, a rectification deed was executed. In the rectification deed, Smt.Gomathy also joined as a signatory. The objection of the Sub Registrar is set out in paragraph 8 of the counter affidavit which reads as follows:

“8. In the draft rectification of partition No.107/2016 prepared on plain paper, it is recited that only some clerical error crept into the original deed of partition and inter alia, some amendments made in the extent of A,B and C Schedule property. But actually, the extent of A schedule of property was changed from 2.47 Ares to 2.40 Ares extent of B schedule property from 2.27 Ares to 2.73 Ares and in C Schedule property extent was come down from 3.16 Ares to 2.39 Ares”.

4. Going by the objection as above, this Court is of the view that what is sought to be done through the rectification deed is only a correction of mistakes crept in the partition deed. There is no change of identity of the property involved. Merely because Smt.Gomathy was not a signatory to the partition deed, it cannot be said that she cannot be a signatory to the rectification deed. Even a person who was not a party to the partition deed can accept the partition effected in his/her absence. Partition is only a separation of shares between

co-owners. Thus, joining Smt.Gomathy in the rectification deed will not make any difference as to the character of the deed executed unless it is shown that the identity of the property in both the partition deed and the rectification deed are distinct and different. Changing the nature of the description without changing the identity of the property certainly fall within the character of rectification deed.

In view of the above, making the interim order dated 13.07.2017 absolute, this writ petition is disposed of. The petitioner shall produce the rectification deed within a period of two weeks from the date of receipt of a copy of this judgment and the Sub Registrar shall register the same in accordance with law.

Sd/-

**A. MUHAMED MUSTAQUE
JUDGE**

smp