

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 19TH DAY OF MARCH 2019 / 28TH PHALGUNA, 1940

WP(C).No. 6038 of 2018

PETITIONER/S:

ABDUL HASSAN  
S/O.SAYED MOHAMMED, AGED 69 YEARS,  
THEKKUMBHAGOM VEEDU, PANCHALLOOR P O,  
THIRUVANANTHAPURAM - 695 027.

BY ADV. SRI.PRAVEEN VYASAN

RESPONDENT/S:

- 1 SUB REGISTRY OFFICER,  
S R O, NEMOM,  
THIRUVANANTHAPURAM - 695 001.
- 2 STATE OF KERALA  
REPRESENTED BY SECRETARY,  
REGISTRATION DEPARTMENT,  
GOVT. SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- \*3 ADD.R3 TO R5 IMPEADED :-

K.A.ABRAHAM  
AGED 58, S/O ABRAHAM,  
RESIDING AT KALLARACKAL HOUSE,  
CHENGALAM P.O, KOTTAYAM DISTRICT.

- 4 MATHEW KUNCHERIA  
RESIDING AT PURACKAL HOUSE, MURINGOOR,  
MUKUNDAPURAM P.O  
THRISSUR DISTRICT.
- 5 HANSAMMA, W/O MATHEW KUNCHERIA  
RESIDING AT PURACKAL HOUSE, MURINGOOR,  
MUKUNDAPURAM P.O  
THRISSUR DISTRICT.

\* ADDL.R3 TO R5 IMPEADED AS PER I.A.NO.1 OF 2019  
DATED 19.03.2019.

BY ADVS.  
SRI.R.T.PRADEEP  
SRI.A.A.RASHEED  
SMT.M.BINDUDAS  
SRI.K.C.HARISH  
R1 & R2 BY SRI.S GOPINATHAN, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
19.03.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner applied for issuance of encumbrance certificate for 81 years. During the period of 81 years, the property has been transferred by 14 persons. The issue in this writ petition is in regard to the fees payable for obtaining a copy of the encumbrance certificate. Table of registration fee under Section 78 of Registration Act would guide the fees applicable. The relevant Rule XI(2) reads thus :-

(2) General search for or inspection of any number of entries or documents relating to one and the same property or executed by or in favour of one and the same individual (alone as well as along with family or tarward) in the books :-

- (a) for the period of first five years - Rs.100
- (b) for the period exceeding 5 years  
but not exceeding 30 years - Rs.250
- (c) For every additional year exceeding  
30 years in the books of which search  
is continued - Rs.25

2. The petitioner after referring to Rule 175 of the Registration Rules would argue that the change of property by different persons at different time cannot

result in charging table of fee for the number of entry in the register in accordance with such transfer. On the other hand, the learned Government Pleader referring to Order 518(c) of Kerala Registration Manual would submit that registering officer is competent levy additional fee, if the property belongs to more than one individual. That means during the search or enquiry connected with the encumbrance certificate, if the Registering Officer finds that the property belongs to more than one individual, additional fee can be levied. This is how the fee was demanded for the application made by the petitioner.

3. The registration Rule only refers to fees stipulates fees for general search and inspection of number of entries in relation to one and the same property. On the other hand the Manual clearly states that if the property belongs to more than one individual during the period, additional fees can be levied. Therefore, if Rule XI(2) read in the light of the Manual, it can be seen that the fees claimed by the Registering Authority is justifiable. Rule 175 of the Registration Rules does not stipulate consequent upon

change of ownership of the same property only one levy can be made. On the other hand, the Manual clearly lays down that, if the property belongs to more than one individual, apart from the multiple entry, additional fee can be levied. Therefore, the number of entries as referred in Rule XI(2) is only regard to the individual concerned and if there are multiple individuals to a property covered by the application, the applicant can be directed to pay the additional fees.

Therefore, I find that the demand as made from the petitioner is justifiable. On the remittance of the additional fee as above, the petitioner shall be given the encumbrance certificate. It is made clear that, I have not decided anything in regard to the rights or interest of the parties concerned in the property.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE**  
**JUDGE**

**SMA**

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

- EXT.P1: TRUE COPIES OF THE PLAINT IN OS.NO.173/2015 OF SUB COURT, THIRUVANANTHAPURAM FILED BY THE PETITIONER.
- EXT.P2: TRUE COPY OF THE PLAINT IN O.S.NO.636 OF 2013 FILED BY THE RIVAL CLAMIANANTS.
- EXT.P3: TRUE COPY OF THE PETITIONER'S APPLICATION FOR ENCUMBRANCE CERTIFICATE
- EXT.P4: TRUE COPY OF THE CONTEMPORARY ENCUMBRANCE CERTIFICATE ISSUED BY SRO NEMOM.

**RESPONDENT(S)' EXHIBITS :- NIL**