

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 06TH DAY OF JANUARY 2020 / 16TH Pousha, 1941

WP(C).No.25009 OF 2019(A)

PETITIONER:

M.J.JOSE,
AGED 64 YEARS
S/O.JOSEPH, MANJAKKUNNEL (MARLAKUZHY) HOUSE,
KADANADU P.O. AND VILLAGE, MEENACHIL TALUK,
KOTTAYAM DISTRICT, PIN- 686 651.

BY ADV. SRI.P.C.HARIDAS

RESPONDENTS:

- 1 THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-01.
- 2 DISTRICT COLLECTOR,
KOTTAYAM, PIN- 686 001.
- 3 THE DISTRICT REGISTRAR,
KOTTAYAM, PIN- 686 001.
- 4 THE SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR, PALA, PIN- 686 575.

OTHER PRESENT:

SMT.A C VIDYA, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 6th day of January 2020

The petitioner, Sri.M.J Jose, sold a property having an extent of 13.53 Ares in Sy No.1782/1/3 of Kadanadu Village in favour of one Smt.Jincy Jose and Sri.Georgekutty Jacob as per Ext.P1 sale deed. Thereafter, the petitioner presented a rectification deed showing the correct side measurements of the land. The extent of the land (13.53 Ares) is the same. The boundaries of the land are also the same. What is sought to be rectified is the side measurement of the land. Treating this rectification deed as a conveyance, the Registrar directed the petitioner to pay the charges leviable for conveyance and also ordered to impound the deed. Challenging this, the petitioner approached this Court.

2. The short question is whether the deed presented by the petitioner is to be treated as rectification deed or not. First of all, I must say that the order of the District Registrar is legally unsustainable for the simple reason that once the property has been conveyed, no longer any right is reserved with the petitioner to execute a conveyance deed. Therefore, at any stretch, the same cannot be treated as conveyance. There is no finding in the impugned order that some or an addition of the

land is sought to be conveyed by the rectification deed. The total extent of the land remains same. The boundary also remains same. In such circumstances, the deed has to be treated as a rectification deed and nothing else. If there are discrepancies in regard to side measurements, it can be corrected by rectification deed especially when there is no challenge in regard to the boundaries or the total extent of the land.

Accordingly, the impugned order is set aside. The Sub Registrar concerned is directed to register the rectification deed by levying the charges applicable to rectification.

This writ petition is disposed of as above.

sd/-

A. MUHAMED MUSTAQUE

JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1** TRUE COPY OF SALE DEED NO.1325/2008 OF
RAMAPURAM SRO.
- EXHIBIT P2** TRUE COPY OF LAND TAX RECEIPT DATED
09.05.2019 ISSUED TO THEM FROM THE KADANADU
VILLAGE OFFICE.
- EXHIBIT P3** TRUE COPY OF RECTIFICATION DEED.
- EXHIBIT P4** TRUE COPY OF THE ORDER DATED 29.08.2019 OF
THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

True Copy

P.S to Judge

smp