

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 07TH DAY OF JULY 2020 / 16TH ASHADHA, 1942

WP(C).NO.13594 OF 2020(Y)

PETITIONER(S) :

JASEENTHA, AGED 59 YEARS,
W/O.LATE PIOUS, ARASARKADAVU HOUSE,
BEACH WARD, ALAPPUZHA, NOW RESIDING AT
ARASARKADAVU HOUSE, POLLETHAI P.O.,
KALAVOOR VILLAGE, ALAPPUZHA - 688 522.

BY ADVS.

SRI.R.KRISHNAKUMAR (CHERTHALA)
SRI.I.B.SUSEEL

RESPONDENT(S) :

- 1 SUB REGISTRAR, SUB REGISTRY OFFICE
MARARIKULAM, KALAVOOR P.O. - 688 522.
- 2 DISTRICT REGISTRAR,
OFFICE OF THE DISTRICT REGISTRAR,
ALAPPUZHA -688 001.
- 3 VILLAGE OFFICER,
VILLEGE OFFICE, KALAVOOR-688 522.

SRI BIMAL K. NATH, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

A Gift Deed vide No.4994 of 1998 was executed in favor of the petitioner and her husband by Smt.Rajeena, the aunt of the petitioner. Later, certain disputes arose and the executant filed a suit for cancellation of the gift deed before the Additional Munsiff, Alappuzha. The suit was dismissed finding that the gift cannot be considered to be conditional and cannot, therefore, be revoked. The said judgment was confirmed in Appeal as well. While the proceedings were pending, the executant left for her heavenly abode. The Regular Second Appeal filed by the executant was dismissed as abated by Exhibit P6 judgment of this Court. While so, she realized to her dismay that her aunt had executed a cancellation deed and had got the same registered with the Mararikulam SRO. The said cancellation deed was executed while the appeal was pending before the higher court against the judgment of the learned Munsiff. It is contended that the cancellation deed has no validity in law particularly when the civil court had decided that the gift deed is irrevocable. The aforesaid Rejeena has died without any legal heirs and in the aforesaid fact scenario, the petitioner had preferred Ext. P9 representation before the 1st respondent to consider her representation and pass appropriate orders.

2. Sri.R.Krishna Kumar, the learned counsel contends that though Ext.P9 is pending before the 1st respondent, no orders have been passed till

date. He submits that his limited prayer at this stage is to direct the 1st respondent to consider Ext.P9 and pass appropriate orders on its merits after hearing the petitioner or her representative.

3. Having considered the facts and circumstances and the submissions made across the bar, this writ petition is disposed of with a direction to the 1st respondent to consider Exhibit-P9 and pass appropriate orders on its merits, after hearing the petitioner or her representative, within a period of eight weeks from the date of receipt of a certified copy of this judgment.

The petitioner shall produce a copy of the writ petition along with the judgment to ensure compliance.

SD/-

RAJA VIJAYARAGHAVAN V

JUDGE

IAP

//TRUE COPY// P.A.TO JUDGE

APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE GIFT DEED NO.4994 OF 1988 DT. 10/11/1988 IN RESPECT OF 10 CENTS OF PROPERTY IN SY.NO.158/13A/I OF MARARIKULAM SOUTH VILLAGE AND A BUILDING THEREIN.
- EXHIBIT P2 A TRUE COPY OF THE JUDGMENT DATED 29/02/2000 IN OS NO.740/1995 ON THE FILE OF THE HON'BLE ADDITIONAL MUNSIF, ALAPPUZHA.
- EXHIBIT P3 A TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE REGISTRAR OF BIRTH AND DEATH, MARARIKKULAM SOUTH GRAMA PANCHAYATH DATED 24/04/2013.
- EXHIBIT P4 A TRUE COPY OF THE CANCELLATION DEED, DOCUMENT NO.2753/2009 OF SRO, MARARIKULAM DT.27/10/2009, EXECUTED BY RAJEENA.
- EXHIBIT P5 A TRUE COPY OF THE CERTIFICATE OF ENCUMBRANCE ON PROPERTY IN RESPECT OF 4.25 SQ.M. IN SY.NO.158/12 OF KALAVOOR VILLAGE FOR THE PERIOD 01/01/1994 OF 29/10/2019 ISSUED BY THE 1ST RESPONDENT DT. 02/11/2019.
- EXHIBIT P6 A TRUE COPY OF THE JUDGMENT DATED 31/01/2019 IN R.S.A. NO.863/2003 OF THIS HON'BLE COURT.
- EXHIBIT P7 A TRUE COPY OF THE LAND TAX RECEIPT DATED 10/06/2020 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P8 A TRUE COPY OF THE PROPERTY TAX RECEIPT ISSUED BY MARARIKULAM SOUTH GRAMA PANCHAYATH DATED 16/06/2018.
- EXHIBIT P9 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 20/06/2020.

RESPONDENT(S) EXHIBITS: NIL