

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY ,THE 26TH DAY OF MARCH 2019 / 5TH CHAITHRA, 1941

WP(C).No. 9153 of 2019

PETITIONERS:

- 1 KARTHIAYANI, AGED 64 YEARS,
D/O. THEYYAN, VALIPARAMU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 2 LAKSHMI M, AGED 73 YEARS,
W/O. GOVINDAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 3 CHANDRAN K.G, AGED 49 YEARS,
S/O. GOVINDAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 4 CHENTHAMARAKSHAN, AGED 45 YEARS,
S/O. GOVINDAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 5 JAYAKUMAR, AGED 37 YEARS,
S/O. GOVINDAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 6 BALAKRISHNAN T.M, AGED 61 YEARS,
S/O. MUTHU, KIZHEKKE THEKKUM KARAYIL HOUSE,
EZHAKKAD P.O, PALAKKAD-678 631.
- 7 KRISHNAKUMAR T.B, AGED 33 YEARS,
S/O. BALAKRISHNAN T.M,
KIZHEKKE THEKKUM KARAYIL HOUSE, EZHAKKAD P.O,
PALAKKAD-678 631.
- 8 GIRISHKUMAR T.B, AGED 31 YEARS,
S/O. BALAKRISHNAN T.M,
KIZHEKKE THEKKUM KARAYIL HOUSE, EZHAKKAD P.O,
PALAKKAD-678 631.
- 9 JIJISHKUMAR T.B, AGED 30 YEARS
S/O. BALAKRISHNAN T.M,
KIZHEKKE THEKKUM KARAYIL HOUSE, EZHAKKAD P.O,
PALAKKAD-678 631.

- 10 SHEELAVATHI, AGED 42 YEARS,
D/O. GOVINDAN, NELLIKKUNNU HOUSE,
KARIMBA P.O, PALAKKAD-678 597.
- 11 SANTHA, AGED 73 YEARS,
W/O.LAKSHMANAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 12 SIVADASAN K.L., AGED 45 YEARS,
S/O. LAKSHMANAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 13 SASI, AGED 36 YEARS,
S/O.LAKSHMANAN, VALIPARAMBU HOUSE,
KODUNTHIRAPPULLI P.O, PALAKKAD-678 004.
- 14 SYAMALA L, AGED 41 YEARS,
D/O. LAKSHMANAN, AMRUTHALAYAM HOUSE,
KINAVALLUR P.O, PALAKKAD-678 612.
- 15 SOUDHAMINI L, AGED 37 YEARS,
D/O. LAKSHMANAN, PAVUKKAD HOUSE,
NARIPPETTA, KUNISSERI P.O, PALAKKAD-678 681.
- 16 LATHA K, AGED 55 YEARS,
W/O. SUKUMARAN, KEESHPADAM HOUSE, MUNDUR P.O,
PALAKKAD-678 592.
- 17 SUNILKUMAR K.S, AGED 38 YEARS,
S/O. SUKUMARAN, KEESHPADAM HOUSE, MUNDUR P.O,
PALAKKAD-678 592,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
SMT.LATHA K, AGED 55 YEARS,
W/O. SUKUMARAN, KEESHPADAM HOUSE, MUNDUR P.O,
PALAKKAD-678 592.
- 18 ANILKUMAR K.S, AGED 36 YEARS
S/O. SUKUMARAN, KEESHPADAM HOUSE, MUNDUR P.O,
PALAKKAD-678 592.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENTS :

- 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPRUAM-695 001.

- 2 THE INSPECTOR GENERAL OF REGISTRATION,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM-695 035.
- 3 THE DISTRICT REGISTRAR (GENERAL) ,
KENATHUPARAMBU, KUNATHURMEDU, PALAKKAD-678 013.
- 4 SUB REGISTRAR,
PARALI, PALAKKAD-678 612.

SRI. PM MANOJ GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26.03.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners presented a partition deed for registration treating it as a partition among the family members and paid stamp duty and registration fee accordingly. The property originally belonged to Theyyan and Ammalu. The parties to the deed are grandchildren, daughter of Theyyan and Ammalu and the widows of predeceased children of the aforesaid Theyyan and Ammalu. In view of the fact that the parties are not forming part of natural family unit, the Registrar refused to register on a lesser stamp duty. This is how the petitioners have approached this Court.

2. The question is whether they can be treated as a family under Section 2(fb) of the Kerala Stamp Act. Section 2(fb) defines 'family' as "father, mother, grandfather, grandmother, husband, wife, son, adopted son, daughter, adopted daughter, grandchildren, brother and sister". It does not include a widow. However, entry in Sl. No.42(a) of the Schedule after amendment, family unit would include legal heirs of the deceased family member, if any. The widow also is a legal heir of the deceased family member. Such being the case, I am of the view that in the light of Section 2(fb) and inclusion of legal heirs of deceased family member by way of entry in Sl.No.42(a) of the Schedule, the petitioners are entitled for registration, treating it as a partition among the family members. There shall

be a direction accordingly, to register the document treating it as a partition among the family members.

The writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE

JUDGE

akv

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE GENEALOGY,

EXHIBIT P2 TRUE COPY OF THE RELEVANT PAGES OF THE
KERALA FINANCE ACT, 2018 PUBLISHED VIDE
NOTIFICATION NO.3111(1)/LEG-A2/2018/LAW
DATED 31-3-18.

EXHIBIT P3 TRUE COPY OF THE PARTITION DEED ALONG WITH
COPY OF THE PATTA DATED 22-2-19.

RESPONDENT'S/S EXHIBITS:NIL.

// TRUE COPY//

CA TO JUDGE