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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 02ND DAY OF APRIL 2019 / 12TH CHAITHRA, 1941

WP(C).No. 9747 of 2019

PETITIONER:

MANU C.JACOB,
AGED 56 YEARS, S/O C.I.JACOB,
CHORALLUR HOUSE, VALLAMKULAM EAST P.O.,
ERAVIPEROOR, THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT.

BY ADVS.
SRI.T.P.PRADEEP
SRI.S.SREEDEV

RESPONDENT:

THE SUB REGISTRAR,
SUB REGISTRAR OFFICE,
THIRUVALLA - 689 101.

P M MANOJ GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02.04.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The scope and purport of identification of the party by a Registering Officer to register a power of attorney or any document is called in question in this writ petition.

2. A Singapore citizen of Indian origin is having an ancestral property in India. The Singapore citizen executed a power of attorney with an authority to transfer the immovable property in India. This power of attorney is a compulsory registerable document under Section 17(1)(g) of Part III of the Registration Act, 1908 as amended by Act 31 of 2013. The power of attorney has been executed in favour of an Indian citizen. He presented the power of attorney for registration.

3. The Registering Authority noting the mandate of Rule 72A of the Registration Rules (Kerala) insisted production of any of documents as referred in Rule 72A for identification of executant of power of attorney who is a foreign national. These

documents are Pan card, ration card, identity card or like documents issued by the Government or any authority controlled by the Government. Admittedly, Singapore citizen does not have any such cards as referable under Rule 72A. The Registering Authority has no other objection for registering the power of attorney. The question is whether a foreign national need to produce any such documents as referred under Rule 72A.

4. The very purport of Rule 72A has to be understood in the light of Rule 72. Rule 72 states about identifying parties appearing before the Registering Officer. It states that it should be proved with trustworthy evidence which may be available. The Rule 72A further illustrates the manner of enquiry to be conducted by the Registering Officer. Rule 72A states that the Registering Officer shall require the parties appearing before him to produce electoral identity card, ration card and such other cards as referred therein issued by the Government or any authority controlled by Government to satisfy himself as to their identity.

Therefore, Rule 72A has to be understood in the light of Rule 72. It cannot be understood as an independent provision *de hors* Rule 72. Rule 72A as seen from the provision is only a procedural aspect of satisfying Rule 72. Therefore, what is important is the satisfaction of the Registering Officer in regard to identification of the parties. If identification of the parties can be relied upon with trustworthy evidence which is made available before the Registering Officer, that can be relied upon by the Registering Officer. A person of foreign nationality cannot have any such documents as referred under Rule 72A. The Rule 72A can be only a guideline so far as Rule 72 is concerned. In the light of Rule 72, it is possible for a foreign national to produce any trustworthy evidence that may be available with him to register such documents. The Rule 72A is only to be understood as a provision that would make Rule 72 workable as far as a person who will be able to produce such documents as referred therein. A foreign national

would not be in a position to produce any such documents as referred under Rule 72A.

Therefore, I am of the view that in the light of Rule 72, if the petitioner produces any such trustworthy document like attested copy of the passport that would be sufficient for the purpose of registering the power of attorney. It is not necessary to have a personal presence of the executer of the power of attorney in the light of judgment of this Court in W.P.(c)No.23710/2018. Therefore, the Registering Authority is directed to permit the petitioner to register the power of attorney without insisting production of any of documents as referred under Rule 72A and accepting the Singapore passport as identification proof. The Registering Authority shall also not insist the presence of the foreign national for the purpose of registering the power of attorney.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE

JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE SETTLEMETN DEED DATED
19.3.2019.
- EXHIBIT P2 TRUE COPY OF THE POWER OF ATTORNEY EXECUTED
ON 13.2.2019.
- EXHIBIT P3 TRUE COPY OF THE MEMO DATED 20.3.2019
ISSUED BY THE RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE PASSPORT OF SOMAN ITTY
KURIEN.
- EXHIBIT P4 A TRUE COPY OF THE PASSPORT OF HEMANTH
KURIEN.

RESPONDENT'S/S EXHIBITS:

NIL

//TRUE COPY//

PA TO JUDGE

YKB