

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 20TH DAY OF OCTOBER 2020 / 28TH ASWINA, 1942

WP(C).No.19388 OF 2020(W)

PETITIONER:

KHAJA SHARAFUDHEEN,
S/O. KHAJA IBRAHIM, CHERACHAM VEETIL,
NIRAMARUTHUR P.O, TIRUR TALUK,
MALAPPURAM DISTRICT, PIN-676 109

BY ADV. SRI.P.T.SHEEJISH

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR
COLLECTORATE, UP HILL, MALAPPURAM DISTRICT,
PIN-676 505
- 2 THE THAHSILDAR,
TIRUR, CIVIL STATION, TIRUR TALUK,
MALAPPURAM DISTRICT, KERALA, PIN-676 101
- 3 THE VILLAGE OFFICER,
NIRAMARADUR VILLAGE, TIRUR TALUK,
MALAPPURAM DISTRICT, KERALA, PIN-676 109
- 4 THE SUB REGISTRAR,
TIRUR TALUK, MALAPPURAM DISTRICT,
KERALA, PIN-676 101

SRI BIMAL K NATH, SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20.10.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The above-captioned writ petition is filed seeking a direction to the 4th respondent to perform the registration of a proposed relinquishment deed without insisting for production of Record of Rights (RoR) certificate.

2. It is the case of the petitioner that the petitioner approached the 4th respondent to get registered a relinquishment deed. The property is subject to certain attachment and the petitioner is intending to purchase the property along with the liability. The petitioner approached the 4th respondent to get the property registered and in the deed presented, he has mentioned about the court attachments and the pending litigations. According to the petitioner, the 4th respondent refused to register the deed on the ground that the petitioner had not produced the RoR certificate. It is in the above background that the petitioner has approached this Court seeking directions.

3. Sri. Bimal K. Nath, the learned Government Pleader on instructions submitted that no records have been produced by the petitioner to show that the document was in fact presented before the 4th respondent and that an order under Section 76 of the Registration Act, 1908 was passed by the Registrar refusing registration. It is submitted that if the document is presented, the same shall be considered and appropriate orders shall be passed.

4. The main grievance of the petitioner is that the document would not be registered if the RoR certificate is not produced. This Court in **Synudheen v. State of Kerala** [2013 (1) KLT 221] and later in **Jacob P.C. v. Village Officer, Ernakulam and Another** [2020 (4) KHC 167] have held that production of RoR certificate is only optional and cannot be made mandatory and the registration officials concerned will not have jurisdiction to refuse registration on the mere ground that the party who presents the document has not produced the RoR certificate in respect of the property concerned.

In that view of the matter, this petition is disposed of directing the petitioner to present the document before the 4th respondent, within a period of three weeks from today. If the document is presented as above, the 4th respondent shall examine the same and act in terms of the provisions of the Registration Act, 1908 and the Rules framed thereunder.

sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 THE TRUE COPY OF THE TITLE DEED OF
PROPERTY RE-SURVEY 369/3 AND 372/2 OF
NIRAMARUTHUR VILLAGE.
- EXHIBIT P2 THE TRUE COPY OF THE PLAINT IN ORIGINAL
SUIT NO. 52/2018 OF SUB COURT, TIRUR.
- EXHIBIT P3 THE TRUE COPY OF THE PLAINT IN ORIGINAL
SUIT NO. 56/2018 OF SUB COURT, TIRUR.
- EXHIBIT P4 THE TRUE COPY OF THE INTERIM ORDER VIDE
IA NO. 743/2018 IN ORIGINAL SUIT NO.
52/2018 OF SUB COURT, TIRUR.
- EXHIBIT P5 THE TRUE COPY OF THE INTERIM ORDER VIDE
IA NO. 816/2018 IN ORIGINAL SUIT NO.
56/2018 OF SUB COURT, TIRUR.
- EXHIBIT P6 THE TRUE COPY OF THE PROPOSED
RELINQUISHMENT TRANSFER DEED.
- EXHIBIT P7 THE TRUE COPY OF THE ACKNOWLEDGMENT
RECEIPT DATED 15.07.19.

RESPONDENTS EXHIBITS:NIL