

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 18879 of 2015 (H)

PETITIONER(S):

- 1. ISSAC PETER, PETER, AGED 67 YEARS,
MALIACKAL HOUSE, NECHOR.P.O., MANEED VILLAGE
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT, PIN-686 664.**
- 2. MRS MERCEY JOSEPH, W/O. JOSEPH, AGED 63 YEARS
PATTATHANATH HOUSE, MANEED.P.O.
MUVATTUPUZHA, ERNAKULAM.**

**BY ADVS.SRI.P.M.JOSHI
SMT.SIJI K.PAUL**

RESPONDENT(S):

- 1. THE SUB REGISTRAR,
SUB REGISTRAR OFFICE PIRAVOM, PIRAVOM.**
- 2. THE DISTRICT REGISTRAR (GENERAL),
DISTRICT REGISTRAR OFFICE, ERNAKULAM.**
- 3. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, ERNAKULAM.**

R1 -R3 BY GOVERNMENT PLEADER SRI. MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ds

WP(C).No. 18879 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- THE TRUE COPY OF THE SALE DEED DATED 19.12.13 IN FAVOR OF PETITIONER.

P2- THE TRUE COPY OF THE RECTIFICATION DEED DATED 12.05.2015.

P3- THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 15.05.2015.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

ds

K. VINOD CHANDRAN, J.

W.P.(C) No. 18879 of 2015 (D)

Dated this the 17th day of July, 2015

J U D G M E N T

The petitioners are aggrieved with Ext.P3, which directed remittance of entire stamp duty for the rectification deed, deeming it to be a fresh deed creating new rights over the property.

2. The brief facts to be noticed are that the petitioners are the vendee and vendor in Ext.P1 deed, which dealt with a property having an extent of 5 Ares and 67 square metre. The survey number which was noticed in Ext.P1 was 420/3A of Maneed Village, Muvattupuzha Taluk, Piravom Sub District. However, later on it was revealed that, by a mistake, the sub-division was shown as 3A and the actual sub-division in which the property exists was 2. Hence, the petitioners prepared a rectification deed at Ext.P2, wherein, but for the sub-division number, all other details are the same.

3. The learned Government Pleader submits that the fair value is fixed differently for various sub-divisions and various survey numbers and hence, the petitioners would have to pay the additional stamp duty which is payable on conveyance of the property in sub-division 2.

4. However, that is not the direction in Ext.P3. Ext.P3 directs the entire stamp duty to be paid, deeming it to be a fresh registration. This Court is not convinced that there are any new rights created. The boundaries of the property, the extent, the vendor and vendee, the location, all of which are identical in Exts.P1 and P2. The only difference is with respect to the sub-division number. If at all, the property existing in that sub-division has a higher fair value, then definitely the Registration Authority would be entitled to demand the additional duty determined on properties existing in Survey No.420/2, after deducting what has been paid as per Ext.P1.

5. The petitioners shall produce the rectification deed Ext.P2, for registration and the 1st respondent shall determine if any additional duty is payable and if that is payable, the petitioner shall be issued with an order in writing. The petitioner shall be given a weeks time to pay such additional duty, and on such production of the deed with the additional stamp duty, definitely the registration has to be carried out. To facilitate that, Ext.P3 is set aside.

Writ Petition would stand allowed.

Sd/-
K.VINOD CHANDRAN,
JUDGE