

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 12TH DAY OF APRIL 2017/22ND CHAITHRA, 1939

WP(C).No. 8300 of 2017 (J)

PETITIONER(S) :

**SREEDEVI,
AGED 36 YEARS, W/O.KOLAYATTIL SUNIL,
MUKUNDAPURAM TALUK, MURIYAD P.O.,-680 683.**

**BY ADVS. SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.RAFEEK. V.K.
SRI.VISHNU BHUVANENDRAN
SRI.U.M.HASSAN
SMT.P.PARVATHY
SMT.S.LEKHA**

RESPONDENT(S) :

**THE SUB REGISTRAR,
KALLETUMKARA, THRISSUR DISTRICT-680 683.**

BY SR. GOVERNMENT PLEADER SMT. K.R.DEEPA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-04-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 8300 of 2017 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1 TRUE COPY OF THE REGISTERED DOCUMENT NO.3122/2005 OF
SUB REGISTRAR OFFICE, KALLETUMKARA.**

EXHIBIT P2 TRUE COPY OF THE TAX RECEIPT(2016-17).

**EXHIBIT P3 TRUE COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER
FROM THE DISTRICT PANCHAYAT OFFICE THRISSUR.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

SHAJI P. CHALY, J.

W.P.(C). No. 8300 OF 2017

Dated this the 12th day of April, 2017

JUDGMENT

Petitioner had sold the property situate in old survey No. 384/1 of Muriyad Village, Mukundapuram Taluk and received major portion of the consideration. However, the document of sale is not accepted for registration on the reason that the document contains a restriction of alienation of property for 12 years, which is opposed to the specific provisions of Transfer of Property Act. According to the petitioner, no other enactment imposes any such restriction of alienation. It is also stated that the rigor of statutory restriction contained under the Land Assignment Act would not apply in the particular transfer and providing any aid under the Social Welfare Scheme does not confer a right on the State to create a clog on the title of the owner of the property. It is in this background seeking appropriate direction to the statutory authority, this writ

petition is filed.

2. Heard learned counsel for the petitioner and learned Senior Government Pleader and perused the documents and the pleadings on record.

3. Ext. P1 is the parent title deed and wherein it is true a restriction is created against transfer of the property for a period of 12 years. However, the same is an understanding entered into by and between the respective parties to Ext. P1 agreement which will not give a right to the concerned Sub Registrar to object to registration of a sale deed on account of the Clause contained thereunder. The issue was considered by a learned Single Judge of this Court in W.P.(C). No. 3411/2014 dated 17.01.2014 and held that such restrictions created is nothing but a clog on the title, which cannot be sustained under law.

4. That being the situation, I am of the considered opinion that the document allegedly produced by the petitioner is liable to be registered by the concerned Sub Registrar. If the petitioner produces any document for

registration and if there are no other legal impediments standing in the way other than the one discussed above, the document shall be registered. However if any enquiry is pending with respect to any transfer of the property, the same can be continued.

Writ petition is disposed of accordingly.

**SHAJI P. CHALY
JUDGE**

DCS