

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 17TH DAY OF DECEMBER 2014/26TH AGRAHAYANA, 1936

WP(C).No. 34122 of 2014 (M)

PETITIONER:

**KAVITHA, D/O.NARAYANAN,
NO.18/654A, THERATTY HOUSE
EZHUVATHIRUTHY, P.O.PONNANI-679577.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT:

**THE SUB REGISTRAR,
PONNANI - 679 583,
MALAPPURAM DISTRICT.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 34122 of 2014 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1: TRUE COPY OF THE REGISTERED DOCUMENT NO.1633/2010 OF SUB REGISTRAR OFFICE, PONNANI.

EXHIBIT-P2: TRUE COPY OF TAX RECEIPT FOR THE YEAR 2013-14.

EXHIBIT-P3: TRUE COPY OF THE REPORT ISSUED FROM SRI SATHYA SAI INSTITUTE OF HIGHER MEDICAL SCIENCE.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.34122 of 2014

Dated this the 17th day of December, 2014

JUDGMENT

The petitioner purchased the property referred in Ext.P1 with the aid of the Government. The petitioner belongs to Scheduled Caste Community. The fund being made available to the petitioner for purchase under the Peoples Planning Project. The petitioner wants to alienate the property. However, on account of the restriction of alienation of the property for 12 years as the petitioner purchased the property with the aid of the Government, the registering authority has refused to effect registration of the document, transferring the right of the petitioner. It is challenging the above action, the writ petition is filed.

2. The rigor of statutory restriction under the Land Assignment Act would not apply in this transfer. 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. The transfer was effected in favour of the petitioner was in terms of Transfer of Property Act. Any stipulation, therefore, restraining the transfer is void in terms of Section 10 of the Transfer of Property Act. If the petitioner violates any contract with the Government, it is for the Government to take action against the petitioner. Since there is no statutory provision to aid the Government to restrain the alienation, any prohibition against the alienation is unsustainable.

In view of the above, any document presented by the petitioner for transfer shall be accepted for registration if it is otherwise in order and to register the same in accordance with the relevant provisions of the Registration Act.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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