



2024:KER:93981

WP(C) NO. 19560 OF 2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

THURSDAY, THE 12TH DAY OF DECEMBER 2024/ 21ST AGRAHAYANA, 1946

WP(C) NO. 19560 OF 2023

PETITIONERS:

- 1 SHAJI XAVIER
 AGED 51 YEARS, S/O. XAVIER,
 PULIYAMAKKAL HOUSE, PULLIKKATA KARA,
 MATHAIPARA PO, VAGAMON VILLAGE,
 IDUKKI DISTRICT., PIN - 685503

- 2 ARUN SHAJI
 AGED 12 YEARS, S/O. SHAJI XAVIER,
 PULIYAMAKKAL HOUSE, PULLIKKATA KARA,
 MATHAIPARA PO, VAGAMON VILLAGE,
 IDUKKI DISTRICT
 REPRESENTED BY HIS FATHER SHAJI XAVIER, THE FIRST
 PETITIONER HEREIN., PIN - 685503

BY ADVS.
BIJU .C. ABRAHAM
THOMAS C.ABRAHAM

RESPONDENTS:

- 1 STATE
 REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
 DEPARTMENT OF REVENUE,
 GOVERNMENT SECRETARIAT,
 THIRUVANANTHAPURAM, PIN - 695001

- 2 THE TAHSILDAR
 PEERMADE TALUK OFFICE, PEERMADE TALUK,
 IDUKKI DISTRICT., PIN - 685531



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3 THE VILLAGE OFFICER
VAGAMON VILLAGE OFFICE,
VAGAMON, IDUKKI DISTRICT.,
PIN - 685503

*ADDL.R4 IMPEADED

ADDL.R4 SOLLY XAVIER,
PUTHEN VEETIL, MUNDAKAYAM,
PUCHAVAYAL PO, KOTTAYAM DISTRICT - 686513

[ADDL.R4 IS IMPEADED AS PER ORDER DATED 15.11.2023
IN I.A-1/2023 IN WP(C) 19560/2023]

BY SRI.RAJIV JYOTHISH GEORGE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12.12.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**T.R. RAVI, J.**-----
W.P.(C). No.19560 of 2023
-----Dated this the 12th day of December, 2024**JUDGMENT**

The grievance of the petitioner is that mutation has not been effected on the basis of a 'Will'. The 1st petitioner is the son of Late Xavier and Philomina Xavier and the 2nd petitioner is the son of the 1st petitioner. It is stated that a joint 'Will' was executed by the parents of the 1st petitioner, copy of which is produced as Ext.P1. The mother of the petitioner died on 23.05.2011. It is stated that the father revoked the 'Will' to the extent of his share in the property and transferred the said properties in favour of the 2nd petitioner as per Ext.P2. The grievance of the petitioners is regarding the mutation of properties which belonged to the mother. The mutation was refused for the reason that the additional 4th respondent, who is the sister of the 1st petitioner filed objection to the mutation. Even though notice was served on the additional 4th respondent, additional 4th respondent has not chosen to appear. It is submitted that the additional 4th respondent has not challenged the 'Will' in any manner known to law before any civil court. It is



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settled law that mutation by itself will not confer any title on the person in whose favour the mutation is carried out.

In the above circumstances, this writ petition is disposed of directing the 3rd respondent to initiate steps for mutation of the properties left behind by the mother of the 1st petitioner and pass necessary orders, if the application is otherwise in order, within two months from the date of receipt of a certified copy of this judgment. This order is without prejudice to any right which the 4th respondent may have with regard to the properties.

Sd/-
T.R. RAVI
JUDGE

Pn

In the judgment dated 12.12.2024 in WP(C) 19560/2023, the description "a true copy of the Will bearing No.741/III/08" of Ext.P1 in the appendix is corrected as "a true copy of the Will bearing No.74/III/08" and the words "covered in Ext.P2" is added in line No.3 of last paragraph of the judgment after the words "the mother of the petitioner", as per the order dated 04.04.2025 in IA-1/25 in WP(C) No.19560/2023.

Sd/-

Joint Registrar



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APPENDIX OF WP(C) 19560/2023

PETITIONER'S EXHIBITS

Exhibit P1	A TRUE COPY OF THE WILL BEARING NO. 741/III/08 DATED 7/11/2008 EXECUTED IN FAVOUR OF THE 1ST PETITIONER
Exhibit P1(a)	A TRUE COPY OF THE DEATH CERTIFICATE DATED 6/6/2011 ISSUED BY UPPUTHARA GRAMA PANCHAYAT
Exhibit P2	A TRUE COPY OF THE SETTLEMENT DEED NO. 877/2023 DATED 14/3/2023 OF PEERMADE SRO
Exhibit P3	A TRUE COPY OF THE COMPLAINT DATED 23/2/2022