

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945

WP(C) NO. 24893 OF 2023

PETITIONERS:

- 1 MRS. BINU. K. PANIKER
AGED 45 YEARS
D/O. LATE KARUNAKARA PANICKER, GOWRI SADANAM HOUSE,
VILANGUPARA, CHIRAKKADAVU CENTRE P.O, PONKUNNAM,
KOTTAYAM, PIN - 686506
- 2 PRANAV RAJ @KANNAN
AGED 17 YEARS
(MINOR), REPRESENTED BY HER MOTHER AND NATURAL GUARDIAN
BINU PANICKER S/O. MRS. BINU. K. PANIKER GOWRI SADANAM
HOUSE, VILANGUPARA, CHIRAKKADAVU CENTRE P.O.,
PONKUNNAM, KOTTAYAM, PIN - 686506
BY ADVS.
SREEKALA KRISHNADAS
C.VIVEK
ASHLY JAMES
BONIFUS P.A.
DEVIKA WARRIER
MAMLU P.S.

RESPONDENTS:

- 1 VILLAGE OFFICER
CHIRAKADAVU VILLAGE, PONKUNNAM, MINI CIVIL STATION,
KOTTAYAM, KERALA, VOCHRKDVKTYM.REV@KERALA.GOV.IN, PIN -
686506
- 2 TAHSILDAR
KANJIRAPPILLY TALUK, 1ST FLOOR, MINI CIVIL STATION,
KOTTAYAM - KUMILY RD, KOKKAPPALLY, KANJIRAPPALLY,
KERALA, VOKNJPLYKTYM.REV@KERALA.GOV.IN, PIN - 686555
- 3 ADDL. R3. BINDU K PANICKER,
AGED 49 YEARS, D/O. LATE KARUNAKARA PANICKER,
SREEVILLA, PNP ROAD, PONKUNNAM FROM GOWRI SADANAM
HOUSE., CHIRAKLKADAVU CENTRE P.O.,
VILANGUPARA ,PONKUNNAM, KOTTAYAM-686506
- 4 ADDL.R4. SNEHAL,
AGED 21 YEARS, S/O. BINDU K PANICKER SREEVILLA, PNP
ROAD, PONKUNNAM FROM GOWRI SADANAM HOUSE., CHIRAKKADAVU
CENTRE P.O., VILANGUPARA, PONKUNNAM, KOTTAYAM - 686506
- 5 ADDL.R5. SEETHAL (MINOR),

AGED 15 YEARS, REPRESENTED BY HER MOTHER AND NATURAL
GUARDIAN BINDU K PANICKER , SREEVILLA, PNP ROAD,
PONKUNNAM FROM GOWRI SADANAM HOUSE., CHIRAKKADAVU
CENTRE P.O., VILANGUPARA, PONKUNNAM, KOTTAYAM -
686506 (ADDL.R3 TO ADDL.R5 IMPEADED AS PER ORDER
DATED 05-10-23 IN IA 1/23 IN WPC)
BY ADV N.SASANKAN PILLAI
SR.GP - DEEPA NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 31.01.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

VIJU ABRAHAM , J.

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WP(C) No. 24893 of 2023

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Dated this the 31st day of January, 2024

J U D G M E N T

Petitioners have approached this Court seeking to quash Ext.P4 order issued by the 2nd respondent whereby the mutation sought for in respect of item No.2 and 3 of schedule B of Ext.P1 was declined for the reason that a suit is pending as O.S. No.83/2021 before the Munsiff Court, Kanjirapally.

2. Petitioners would submit that the said suit has been disposed of as per common judgment in O.S. No.83/2021 and O.S. No.244/2022 of the Munsiff Court, Kanjirapally, whereby both the suits were dismissed. In the light of the same petitioners would submit that the objection raised in Ext.P4 is no more available to the respondents to reject the request made by the petitioners.

3. The learned Counsel appearing for additional respondents 3 and 5 would submit that there is yet another suit pending as O.S. No.21/2023 before the Sub Court, Pala in which identity of the property is in dispute and therefore, even in the light of Ext.P10 judgment in O.S. No.83/2021 and O.S. No.244/2022 of Munsiff Court, Kanjirapally, the request made by the petitioners cannot be considered.

4. Heard the learned Government Pleader also.

5. The only objection raised in Ext.P4 to decline the request made by the petitioners for mutation is the pendency of O.S. No.83/2021 which has now been dismissed as per Ext.P10 judgment, but the learned Counsel for respondents 3 to 5 submits that another suit is also pending. In view of the same, I am of the opinion that the matter requires reconsideration at the hands of the Tahsildar (LR), Kanjirapally. Therefore, Ext. P4 is set aside with a consequential direction to the Tahsildar (LR), Kanjirapally to reconsider the application seeking mutation of the property after affording an opportunity of being heard to the petitioners as well as respondents 3 to 5 and any other affected party. A fresh decision in the matter shall be taken within an outer limit of two months from the date of receipt of a copy of this judgment.

With the above said direction, the writ petition is disposed of.

**Sd/-
VIJU ABRAHAM
JUDGE**

sbk/-

APPENDIX OF WP(C) 24893/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE WILL DATED 09.11.2011
REGISTERED AS DOC.NO.256/2011.
- Exhibit P2 TRUE COPY OF THE DEATH CERTIFICATE DATED
13.07.2015 REGISTRATION NO.
DEATH/2015/4705.
- Exhibit P3 TRUE COPY OF THE RELEASE DEED
DOC.NO.1758/2018 DATED 01.09.2018.
- Exhibit P4 TRUE COPY OF THE ORDER DATED 13.06.2023
BEARING NO.TLKKPY/4836/2022-D3 OF THE 2ND
RESPONDENT.
- Exhibit P5 TRUE COPY OF THE PLAINT DATED 29.03.2021
IN O.S.NO.83/2021 BEFORE THE MUNSIFF
COURT, KANJIRAPPILLY.

RESPONDENT EXHIBITS

- Exhibit R4 (A) True copy of Suit No. 21/2023 pending
before Pala Sub Court

PETITIONER EXHIBITS

- Exhibit P7 True copy of the tax receipt dated
31.07.2023 bearing No.KL05020209187/2023.
- Exhibit P8 True copy of the order vacating the
interim injunction dated 10.10.2023 from
the Honourable Sub Judge in OS.No.21/2023.
- Exhibit P9 True copy of the argument notes filed
before the 2nd respondent.
- Exhibit P6 True copy of the Settlement Deed No.
1464/2018 dated 12/07/2018 in favor of the
petitioner.
- Exhibit P10 TRUE COPY OF THE COMMON JUDGMENT IN OS
83/2021 & OS 244/2022 DATED 25/11/2023 ON
THE FILES OF THE MUNSIFF COURT,
KANJIRAPPALLY.