

Shaji Xavier vs State

Shaji Xavier vs State

SooperKanoon Citation : sooperkanoon.com/1295011

Court : Kerala

Decided On : Dec-12-2024

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : WP(C)/19560/2023

Appellant : Shaji Xavier

Respondent : STATE

Judgement :

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
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 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 1 st petitioner is the son of Late Xavier and Philomina Xavier and the 2 nd 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 2 nd

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 4 th respondent, who is the sister of the 1 st petitioner filed objection to the mutation. Even though notice was served on the additional 4 th 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

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 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. Exhibit P3 A TRUE COPY OF THE COMPLAINT DATED

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com