

Akbar vs Secretary

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SooperKanoon Citation : sooperkanoon.com/1298120

Court : Kerala

Decided On : Jun-03-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/10089/2015

Appellant : AKBAR

Respondent : Secretary

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 3RD DAY OF JUNE 2024 / 13TH JYAISHTA, 1946
WP(C) NO. 10089 OF 2015 PETITIONER: AKBAR AGED 70 YEARS
S/O. HYDROSE, AMBAKUDI HOUSE, WEST KADUNGALLOOR,
ALUVA, ERNAKULAM. BY ADV SRI.C.A.ANOOP RESPONDENTS: 1
SECRETARY KADUNGALLOOR CO-OPERATIVE BANK, WEST
KADUNGALLOOR, ALUVA - 10. 2 SUB REGISTRAR ALANGAD SUB
REGISTRAR'S OFFICE, ALANGAD - 683 511 3 DISTRICT REGISTRAR
ERNAKULAM REGISTRAR'S OFFICE, ERNAKULAM - 680 011.
OTHER PRESENT: SRI.RIYAL DEVASSY, GP THIS WRIT PETITION
(CIVIL) HAVING COME UP FOR ADMISSION ON 03.06.2024, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN,J.

----- Dated this the 3rd day of June,
2024

JUDGMENT

This writ petition is filed with the following prayers:- i) Issue a writ in the nature of mandamus or any other appropriate writ order or direction to the 2nd respondent to register the mortgage deed presented by the petitioner in favour of 1st respondent. ii) Issue any such other writ order or direction as this Hon'ble Court deem fit in the interest of justice. (SIC)

2. The petitioner purchased two properties as

evident by Exts.P1 and P2 documents is the submission. Thereafter, the petitioner pledged the properties to the 1 st respondent Bank in the year 2009 by way of mortgage by deposit of title deeds. It is submitted that the petitioner renewed the same year to year by registering it every year. When the petitioner approached the authorities in the year 2015, the 2nd respondent did not allowed to register the documents on the ground that the above documents are

under valued is the submission. It is submitted that as per Ext.P7, the petitioner was directed to deposit an amount of Rs.77,400/- and Rs.3,720/- which are due to the Government for registering documents. Aggrieved by Ext.P7, this writ petition is filed.

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. The petitioner submitted that Ext.P7 is a order

without giving an opportunity of hearing to the petitioner. As per Ext.P7, the petitioner is directed to pay an amount of Rs.77,400/- and Rs.3,720/- to the

Government and the amount is fixed without giving an opportunity of hearing to the petitioner.

5. When this writ petition came up for consideration

on 30.03.2015, this Court was pleased to direct the 2 nd respondent to register the mortgaged deed produced by the petitioner subject to the result of the writ petition.

6. After hearing the counsel for the petitioner and

the learned Government Pleader, I am of the considered opinion that Ext.P7 can be treated as a show cause notice and the petitioner can be allowed to submit his objection to the same within a time frame and thereafter, the 2 nd respondent can pass appropriate orders in accordance with law. Therefore, this writ petition is disposed of with the following directions:-

1) Ext.P7 shall be treated as show cause notice. 2) The petitioner shall submit his objection to Ext.P7 within 30 days from the date of receipt of a certified copy of this judgment. 3) Once the objection is received, the 2nd respondent will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner. 4) If the objection is received as directed above, the 2nd respondent shall defer all further proceedings consequent to Ext.P7 till final orders are passed in the objection. Sd/- P.V.KUNHIKRISHNAN JUDGE

bng APPENDIX OF WP(C) 10089/2015 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE SALE DEED NO. 4049/06 DT. 22.6.08. EXHIBIT P2 TRUE COPY OF THE SALE DEED NO. 4492/05 DT. 05.8.05. EXHIBIT P3 TRUE COPY OF THE TAX RECEIPT FOR RS. 60/- DT. 03.5.13. EXHIBIT P4 TRUE COPY OF THE TAX RECEIPT FOR RS. 20/- DT. 07.9.08. EXHIBIT P5 TRUE COPY OF THE LETTER ISSUED BY 1ST RESPONDENT BANK EXHIBIT P6 TRUE COPY OF THE APPLICATION DT. 26.3.15 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. EXHIBIT P7 TRUE COPY OF THE REPLY DT. 26.3.15 ISSUED BY THE 2ND RESPONDENT.