

**Suresh Kumar M J., vs the Inspector General of Registration,**

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**SooperKanoon Citation :** [sooperkanoon.com/1442852](https://sooperkanoon.com/1442852)

**Court :** Kerala

**Decided On :** Feb-22-2022

**Judge :** Honourable Mr. Justice Devan Ramachandran

**Appeal No. :** WP(C)/1355/2022

**Appellant :** Suresh Kumar M J.,

**Respondent :** The Inspector General of Registration,

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 22ND DAY OF FEBRUARY 2022 / 3RD PHALGUNA, 1943 PETITIONER: SURESH KUMAR M J., AGED 53 YEARS S/O. JANARDHANAN, POOMANGALAGALAM HOUSE, NANGYARKULANGARA P.O., ALAPPUZHA 690 513. BY ADVS. JOHN K.GEORGE M.A.PRABHU RESPONDENTS: 1 THE INSPECTOR GENERAL OF REGISTRATION, OFFICE OF THE INSPECTOR GENERAL, VANJIYOOR, THIRUVANANTHAPURAM 695 035. 2 THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR, CHEPPAD, NANGYARKULANGARA P.O., ALAPPUZHA 690 513. 3 SANTHOSH A, AGED 43 YEARS S/O. APPUKUTTAN, AYISHA BHAVANAM,

NANGYARKULANGARA, P.O., ALAPPUZHA 690 513. OTHER PRESENT: SMT.K.AMMINIKUTTY SR.G.P. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## JUDGMENT

The petitioner is stated to be the nephew of Mrs.Rohinikutty Chanatty and says that the latter had bequeathed property to him as per a registered Will dated 10.10.2011. He alleges that the 3<sup>rd</sup> respondent, who is another grandson of Mrs.Rohinikutty Chanatty, took her into his confidence and, using undue influence, created a document-purported to be a Sale Deed - transferring the property in his name, showing payment of consideration to her.

2. The petitioner asserts that the afore transaction is a

fabricated one and that Mrs.Rohinikutty Chanatty is not even aware of it; and consequently, that the Sale Deed ought not to have been registered by the Sub Registrar. He says that, he has, therefore, preferred Ext.P4 representation before the 2<sup>nd</sup> respondent, seeking appropriate action against the document and the 3<sup>rd</sup> respondent, but that no action has been taken thereon, thus constraining him to approach this Court seeking that necessary steps be taken to cancel the Sale Deed within a time frame to be fixed by this Court.

3. Sri.John K. George, learned counsel for the petitioner, added to the afore, saying that as is evident from the pleadings and materials on record, the Sale Deed is said to have been registered by

the 3<sup>rd</sup> respondent on 28.09.2020 and that on 06.10.2020 itself, Mrs.Rohinikutty Chanatty has made a complaint before the Station House Officer, Haripad, based on which Crime No.1157/2020 has been registered. He pointed out that a Final Charge Sheet in the said Crime has been now filed by the Police and consequently, that this is an eminent case where his client's representation, namely Ext.P4, should now be directed to be considered.

4. The learned Senior Government Pleader - Smt.K.Amminkutty, in response, submitted that though the Sub

**Registrar has no legal impediment in considering Ext.P4, the facts**

involved would indicate that the proper remedy of the petitioner is to approach the competent Civil Court. She added that she is making this submission because, at the time when the Sale Deed was registered, no complaint had been raised by Mrs.Rohinikutty Chanatty and that she has not been made a party to this writ petition. She submitted that, therefore, if this Court is inclined to direct the Sub

Registrar to consider Ext.P4, said Authority may be allowed permission to summon Mrs.Rohinikutty Chanatty, as also the 3<sup>rd</sup> respondent, so that their version can be then evaluated, leading to an appropriate proceedings.

5. I notice from the files of this case that the summons issued to respondent No.3 has been returned without being claimed. I, am therefore, constrained to dispose of this writ petition in his absence.

6. The afore rival positions of the parties would make it

indubitable that, on one hand, the petitioner says that the Sale Deed claimed by the 3<sup>rd</sup> respondent is a fraudulent one and that no sale consideration was given to Smt.Rohinikutty Chanatty; while the learned Government Pleader takes the stand that the Sub Registrar acted correctly because there was no objections raised at the time when the said document had been registered.

7. Obviously, therefore, whether there was a fraud played on

Mrs.Rohinikutty Chanatty while the Sale Deed was executed and if the same is a fabricated one, are matters which will have to be considered at the first instance by the Sub Registrar himself and it would not be possible for this Court to speak on it conclusively at this stage. Resultantly, I order this writ petition to the limited extent of directing the 2<sup>nd</sup> respondent to take up Ext.P4 representation of the petitioner and dispose of the same, after affording him, Mrs.Rohinikutty Chanatty as also the

3<sup>rd</sup> respondent, sufficient opportunities of being heard and of producing necessary documents in substantiation of their rival plea; thus culminating in an appropriate

**order and necessary action thereon, as expeditiously as is possible but**

not later than two months from the date of receipt of a copy of this

**judgment.**

I make it clear that I have not considered any of the contentions of the rival parties on its merits and that all of them are left open, which would thus enable the 2<sup>nd</sup> respondent to take any decision as may be permitted to him in law, after evaluating the claim and counter claims of the parties appropriately.

Sd/- DEVAN RAMACHANDRAN JUDGE rp APPENDIX OF WP(C) 1355/2022  
PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE COMPLAINT GIVEN BY ROHINIKUTTY TO SHO HARIPAD DATED 06/10/2020. Exhibit P2 TRUE COPY OF THE FIR IN CRIME IN 1157/2020 OF HARIPAD POLICE STATION, DATED 07/10/2020. Exhibit P3 A TRUE COPY OF THE FINDINGS OF THE 1<sup>ST</sup> RESPONDENT DATED 06/03/2021. Exhibit P4 A TRUE COPY OF THE LETTER DATED 13/09/2021 ADDRESSED TO THE 2<sup>ND</sup> RESPONDENT.

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