



IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

TUESDAY, THE 7<sup>TH</sup> DAY OF OCTOBER 2025 / 15TH ASWINA, 1947

WP(C) NO. 41687 OF 2024

PETITIONER:

RAJENDRAN ASHARI. R  
AGED 49 YEARS  
S/O. RAMAKRISHNAN ASHARI, KOCHUVILA VEEDU,  
AIYROOR VILLAGE, AIYROOR P.O,  
THIRUVANANTHAPURAM DISTRICT, PIN - 695310

BY ADV. SHRI. RAJ CAROLIN V.

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER/ SUB COLLECTOR,  
REVENUE DIVISION OFFICE,  
CIVIL STATION BUILDING,  
KUDAPPANAKUNNU,  
THIRUVANANTHAPURAM DISTRICT, PIN - 695043.
- 2 THE TAHSILDAR (L.R) VARKALA,  
VARKALA TALUK OFFICE, COURT RD, VARKALA,  
THIRUVANANTHAPURAM DISTRICT, PIN - 695141
- 3 THE VILLAGE OFFICER,  
AIYROOR VILLAGE OFFICE, KARAVARAM JUNCTION,  
AIYROOR P.O,  
THIRUVANANTHAPURAM DISTRICT, PIN - 695310



\*ADDL.R4 IMPEADED

\*ADDL.R4 DEVADASAN, AGED 51 YEARS,  
S/O. RAMAKRISHNAN ASHARI, KOCHUVILA VEEDU,  
AIYROOR VILLAGE, AIYROOR P.O,  
THIRUVANANTHAPURAM DISTRICT - 695310.

\*IS IMPEADED AS ADDL.R4 AS PER ORDER DATED  
05.02.2025 IN I.A.NO.1/2025 IN W.P.(C) 41687/2024.

BY ADV.  
SMT.DEEPA NARAYANAN, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
07.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



### JUDGMENT

The petitioner is one among the parties in Ext.P3 partition deed. On the strength of Ext.P3, the petitioner sought for mutation of the property allotted to his share. The same has been refused by the 2<sup>nd</sup> respondent/Tahsildar on the premise that one among the legal heirs have been left out in the partition deed. Learned counsel for the petitioner would submit that the additional 4<sup>th</sup> respondent, Devadasan, was estranged with the family and he did not join the partition deed. Nevertheless, a property has been earmarked to his share, vide Schedule II to Ext.P3 partition deed. According to the learned counsel, the non-joining of one of the parties cannot be a matter, which can be taken stock of by the 2<sup>nd</sup> respondent/Tahsildar, to refuse the mutation, especially when a property has been earmarked to the absentee's share. If the additional 4<sup>th</sup> respondent is aggrieved by the execution of the partition deed excluding him, it is for



.4.

2025:KER:73955

him to take appropriate action as per law. Refusing mutation is not the remedy, is the submission made by the learned counsel.

2. This Court notice that the petitioner was directed to implead additional 4<sup>th</sup> respondent Devadasan and accordingly, he was impleaded. However, there is no representation for the said respondent before this Court.

3. Learned Senior Government Pleader has filed a counter affidavit and would submit that although the additional 4<sup>th</sup> respondent had filed an objection to the mutations sought for by the petitioner, he did not turn up before the 2<sup>nd</sup> respondent, despite issuance of notice on three occasions. Learned Senior Government Pleader would submit that it is based on the complaint preferred by the additional 4<sup>th</sup> respondent that the mutation was refused in favour of the petitioner.

4. Having heard the respective parties, this Court is of the opinion that the mutation sought for by the petitioner has to



.5.

2025:KER:73955

be allowed. The fact that one among the parties has not joined the partition deed is not a reason to refuse mutation. As rightly pointed out by the learned counsel for the petitioner, if the excluded sharer has got any grievance, it is for him to take appropriate action in terms of law, either to get Ext.P3 partition deed set aside or to seek such other remedies, as advised. If the same has not been done, it is not for the mutating authority to safeguard the interests of the excluded sharer. The petitioner sought for mutation only in respect of the property allotted to his share. This Court further notice that a share has been allotted and earmarked to the excluded sharer as well, even though the same may not preclude the rights of the excluded sharer to challenge Ext.P3.

5. In the circumstances, there will be a direction to the 2<sup>nd</sup> respondent to effect mutation in respect of the property allotted to the petitioner's share, in accordance with law, expeditiously, at any rate, within a period of one month from the date of receipt of a copy of this judgment. Petitioner will

W,P(C) No.41687 of 2024



. 6 .

2025:KER:73955

produce a copy of the judgment before the 2<sup>nd</sup> respondent, for compliance.

This Writ Petition will stand disposed, as above.

Sd/-

**C. JAYACHANDRAN, JUDGE**

ww



APPENDIX OF WP(C) 41687/2024

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE LAND TAX RECEIPT ISSUED BY THE 3RD RESPONDENT VILLAGE OFFICER BEARING NO.KL01060103405/2024 DATED 20/04/2024.
- EXHIBIT P2 TRUE COPY OF THE FAMILY MEMBERSHIP CERTIFICATE ISSUED BY THE 3RD RESPONDENT BEARING NO.87327795 DATED 18/07/2024.
- EXHIBIT P3 TRUE COPY OF THE REGISTERED PARTITION DEED BEARING NO.1915/24/I DATED 25/07/2024 OF VARKALA SRO.
- EXHIBIT P4 TRUE COPY OF THE NOTICE FOR HEARING ISSUED BY THE 2ND RESPONDENT BEARING NO.TLK-VKL-1908/2024-K1 DATED NIL.
- EXHIBIT P5 TRUE COPY OF THE STATUTORY APPEAL SUBMITTED BEFORE THE 1ST RESPONDENT DATED 08/11/2024.
- EXHIBIT P6 TRUE COPY OF THE POSTAL RECEIPT ISSUED BY INDIA POST BEARING NO.EL576047718IN DATED 08/11/2024 UPON DESPATCH OF EXHIBIT P5.
- EXHIBIT P7 TRUE COPY OF THE POSTAL TRACK REPORT (TRACK CONSIGNMENT) GENERATED FROM THE INDIA POST WEB PORTAL DATED 09/11/2024.

RESPONDENT EXHIBITS

- EXHIBIT R2 (A) A TRUE COPY OF THE OBJECTION FILED BY Mr.DEVADASAN DATED 12.12.2024.