

2021 (4) KLT 467  
Hon'ble Mr. Justice Raja Vijayaraghavan, V.  
Joy v. Sub Registrar  
W.P.(C). No. 13580 of 2021  
Decided on 20<sup>th</sup> July, 2021

JUDGEMENT

**History of the case :-** The property owned by the petitioner was acquired for the setting up of a pipeline by the Kerala Water Authority. As part of rehabilitation measures, property admeasuring 1.62 Ares situated within the limits of Thrikkakara Village was assigned to him as per Exhibit P1 Sale deed. In Exhibit P1, it is equivocally stated that the entire rights over the property stood transferred to the petitioner and that he is entitled to enjoy the same without any restrictions whatsoever, and that the entire rights of the vendor will stand divested in favour of the petitioner on the execution of the deed.

The petitioner wanted to assign the property and for that purpose, he executed Exhibit P2 Sale deed on 15.01.2021 paid Rs 1,63,296/- by way of Stamp Duty and presented the same for registration before the 1<sup>st</sup> respondent on 16.01.2021. The 1<sup>st</sup> respondent took the view that as the property originally belonged to the Kerala Water Authority, the petitioner is required to obtain a No Objection Certificate from the District Collector, who is the officer authorized under S.71(3) of the Registration Act, 1908. Exhibit P3 is the order dated 02.02.2021 refusing registration. He has not received the NOC since absolute Sale deed was executed by the authority in favour of the petitioner later when the Sale deed was presented again the statutory period of 4 months has been elapsed and then Sub-Registrar demanded fine for registration.

**Held :-** Section 71(3) places an embargo on the registering officer and he is interdicted from accepting any document for registration involving transfer including a contract for the sale of immovable property if the property involved therein is vested in the Government of Kerala or public sector undertakings operating in the State or local self-government institutions unless it is accompanied by a no-objection certificate issued by an officer authorized by the State Government. It is evident from Exhibit P1 and P2 that the entire rights over the property were vested with the petitioner and neither the State or the KWA has any rights over the same. He had absolute authority to transfer the same free of all encumbrances. This was what was noted by the 2<sup>nd</sup> respondent while passing Exhibit P6. I have no doubt in my mind that the 1<sup>st</sup> respondent has misinterpreted the statutory provisions and has refused registration. As rightly argued by the learned Counsel, this is where the maxim "Nul prendra advantage de son tort demesne" (No one shall take advantage of his own wrong) comes in. The 1<sup>st</sup> respondent cannot be permitted to take advantage of his wrong. The petitioner cannot be asked to pay a fine for delayed presentation fo the document as it was owing to the wrongs committed by the 1<sup>st</sup> respondent that registration was delayed.

**(Note : S.71(3) of the Registration Act - No registering officer shall accept for registration any document involving transfer of property including contract for sale of immovable property belonging to or vested in the Government of Kerala or public sector undertakings operating in the State or local self-Government institutions unless it is accompanied by a no objection Certificate issued by an officer authorised by the State Government in this behalf.)**

06-08-2021

Alex, Edappally  
Rtd Sub Registrar  
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