



2026:KER:51588

Writ Appeal Nos.203 and 1354 of 2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MRS. JUSTICE PREETA A.K.

MONDAY, THE 13TH DAY OF JULY 2026 / 22ND ASHADHA, 1948

WA NO. 203 OF 2022

APPELLANTS/RESPONDENTS IN W.P.(C) :

- 1 INSPECTOR GENERAL OF REGISTRATIONS
EX. MAYOR, R. BALAKRISHNAN NAIR ROAD,
NEAR DISTRICT COURT, VANCHIYOOR,
THIRUVANANTHAPURAM, PIN - 695 035
- 2 SUB REGISTRAR
SUB REGISTRAR OFFICE, PANANTHARA,
AANDATHODE, THRISSUR, PIN - 679 564

BY M.R ARUNKUMAR, SR.GP

RESPONDENT/PETITIONER IN W.P.(C) :

MUHAMMED
S/O KUNJIMUHAMMAD, KATTIPARAMBIL,
VEEDU, VAILATHOOR P. O.,
THRISSUR, PIN - 679563

BY ADVS.
SRI.P.M.HABEEB
SRI.RAJIT

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 13.07.2026,
ALONG WITH WA.1354/2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR
&
THE HONOURABLE MRS. JUSTICE PREETA A.K.
MONDAY, THE 13TH DAY OF JULY 2026 / 22ND ASHADHA, 1948
WA NO. 1354 OF 2022

AGAINST THE ORDER DATED 04.07.2022 IN RP NO.470 OF 2022 OF
HIGH COURT OF KERALA

APPELLANTS/REVIEW PETITIONERS/RESPONDENTS 1 TO 3 IN W.P. (C) :

- 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO
GOVERNMENT
DEPARTMENT OF REGISTRATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR, PALAKKAD,
DISTRICT COLLECTORATE, CIVIL STATION,
PALAKKAD, PIN - 678001
- 3 THE SUB REGISTRAR, PALAKKAD
SUB REGISTRAR'S OFFICE, CIVIL STATION,
PALAKKAD, PIN - 678001

BY ADVS.
M.R ARUN KUMAR, SR. GP
SHRI.K.P.JAYACHANDRAN, ADDL. ADVOCATE GENERAL

RESPONDENT/RESPONDENT/PETITIONER IN W.P. (C) :

V.R.JAMEELA,
W/O.MAJEED, RESIDING AT 30/211, THOTTINGAL (PANICKASSERY)
HOUSE, NOORANI,
PALAKKAD DISTRICT, PIN - 678004

BY ADV SHRI.JACOB SEBASTIAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13.07.2026,
ALONG WITH WA.203/2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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“CR”

JUDGMENT**Dr.A.K.Jayasankaran Nambiar, J.**

As both these writ appeals preferred by the State involve a common issue, they are taken up together for consideration and are disposed by this common judgment.

2. The issue that arises for consideration in both the appeals is whether, when a power of attorney instrument is executed by persons situated abroad in favour of a person situated in India for the purpose of executing other instruments relating to the transfer of immovable property situated in India, the said power of attorney instrument needs to be compulsorily registered in terms of Section 17 of the Registration Act, 1908 (hereinafter referred to as 'the Act'), or whether mere compliance with the requirements of Sections 32 and 33 of the Registration Act, 1908 would suffice?

3. In W.P.(C) No.7863 of 2021, from which Writ Appeal No.203 of 2022 arises, the writ petitioner, who was the power of attorney holder of the owners of the property residing abroad, had entered into a sale transaction by executing Ext.P2 sale deed in favour of a third person. The sale transaction was in respect of properties situated in India, and the execution of the sale deed



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was under the strength of the power of attorney held by the writ petitioner. When the sale deed was presented for registration, the Sub Registrar, through Ext.P5 communication, objected to the registration of the instrument on the grounds (i) that the vendors under the sale deed were all foreigners and, therefore, prior permission from the Reserve Bank of India was required; (ii) that the thumb impressions of the executants, as required under Section 32 of the Act, were not affixed on the instrument; and (iii) that, in view of Section 17(1)(g) of the Act, the power of attorney instrument authorising the writ petitioner to act on behalf of the principals had to be compulsorily registered, which it was not. It was the said communication issued by the Sub Registrar that was impugned in the writ petition.

4. In W.P.(C) No.21546 of 2021, from which Writ Appeal No.1354 of 2022 arises, the power of attorney instrument was executed by the son-in-law of the writ petitioner in her favour. Although the execution of the power of attorney in favour of the writ petitioner was duly attested by the Indian Consulate at Dubai, when the writ petitioner presented a sale deed executed by her on behalf of her son-in-law, the Sub Registrar refused to act upon it on the ground that the power of attorney instrument was not registered in terms of Section 17(1)(g) of the Registration Act.



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5. The learned Single Judge, who considered both the writ petitions, through separate judgments, allowed the writ petitions by taking the view that, so long as the execution of the power of attorney instruments and their authentication was before and by an Indian Consul or Vice-Consul in the manner stipulated under Section 33 of the Act, the same would suffice for the purpose of presenting other instruments for registration in terms of Section 32 of the Act. The learned Single Judge did not, however, consider the scope and ambit of Section 17(1)(g) of the Act or the objection that the power of attorney instrument had to be compulsorily registered if executed in the circumstances contemplated thereunder. The writ petitions were, therefore, allowed without noticing the said objection raised by the registering authority.

6. In the appeals before us, the learned Senior Government Pleader, Sri M.R. Arun Kumar, points out that, while the power of attorney instrument may be valid for the purposes of Sections 32 and 33 of the Act, the same nevertheless had to be compulsorily registered as per the requirements of Section 17(1)(g) of the Act. It is his contention that, inasmuch as the power of attorney instruments in question in these cases were not registered, the power of attorney holders could not be permitted to act thereunder for the purpose of effecting the transfer of immovable



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property through the sale deeds presented for registration by them.

7. Per contra, it is the submission of the learned counsel for the respondent writ petitioner in Writ Appeal No.203 of 2022 that the provisions of Section 17(1)(g) and Sections 32 and 33 of the Act have to be read together so as to form a code by themselves with regard to the execution of documents conveying immovable property by a power of attorney holder. It is his contention that, so long as the power of attorney instrument was executed and authenticated in the manner contemplated under Section 33 of the Act, the requirements under Section 32 with regard to the presentation of the document for registration would stand complied with and, therefore, such powers of attorney, which are recognised for the purposes of Section 32, would stand excluded from the ambit of compulsorily registrable documents under Section 17(1)(g) of the Act.

8. On a consideration of the rival submissions, we find force in the contention of the learned Government Pleader that the provisions of Section 17(1)(g) of the Act stand separate and independent of the procedural requirements under Sections 32 and 33 of the Registration Act. While Section 17(1)(g) of the Act



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stipulates the categories of documents that are compulsorily registrable, Sections 32 and 33 fall under Part VI, which deals with the procedure for presenting documents for registration. While Section 32 of the Act deals with the persons who are entitled to present documents for registration, Section 33 of the Act deals specifically with powers of attorney recognisable "for the purposes of Section 32 of the Act". Thus, the special procedure contemplated under Section 33 of the Act for the execution of a power of attorney, where the principal at the time of its execution does not reside in India, only deems the power of attorney so executed to be valid for the purpose of presenting documents for registration. However, the requirement of compulsory registration of documents stands independent of and separate from the provisions under Part VI of the Registration Act. Section 17 of the Act falls under Part III, which deals with registrable documents. In other words, it deals with the requirement of registration before the instrument in question can be regarded as valid for the purpose of creating or legitimising the relationship or transaction sought to be brought about through the said instrument. Inasmuch as the power of attorney instruments in the instant cases created a power to transfer or otherwise deal with immovable property in favour of persons other than those specifically mentioned in



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Section 17(1)(g), the power of attorney instruments had to be necessarily registered.

9. In the instant cases, it is the admitted position that the power of attorney instruments were not registered. We are therefore of the view that the objection raised in this regard by the Registering Authority was valid, and the writ petitioners could not have used the said power of attorney instruments for the purpose of effecting the sale transactions, the instruments in respect of which were presented for registration before the office of the Sub Registrar.

The impugned judgments of the learned Single Judge are, therefore, set aside on this issue, and the appeals are allowed to that extent.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
PREETA A.K.
JUDGE

sab