



2026:KER:22091

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN

WEDNESDAY, THE 11<sup>TH</sup> DAY OF MARCH 2026 / 20TH PHALGUNA, 1947

WP (C) NO. 40794 OF 2024

PETITIONERS:

ALAVIKUTTY. T. K  
AGED 57 YEARS  
S/O HYDER, RESIDING AT THURAKKAL HOUSE,  
PERUMPOYILKUNNU, CHUNGATHARA P.O, NILAMBUR,  
MALAPPURAM DISTRICT, (NOW RESIDING AT NO.30, VIKASU  
APARTMENTS, 2ND CIRCULAR ROAD, JAWAHAR NAGAR,  
CHENNAI), PIN - 600082

BY ADVS.  
SRI.T.C.SURESH MENON  
SRI.B.DEEPAK

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
REGISTRATION DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE SUB REGISTRAR  
OFFICE OF THE SUB REGISTRAR, EDAKKARA, EDAKKARA  
P.O, MALAPPURAM DISTRICT, PIN - 679331
- 3 THE DISTRICT REGISTRAR  
MALAPPURAM, CIVIL STATION, MALAPPURAM DISTRICT, PIN  
- 676505
- 4 THE DISTRICT COLLECTOR  
MALAPPURAM DISTRICT, COLLECTORATE, CIVIL STATION,  
MALAPPURAM, PIN - 676505

OTHER PRESENT:

SRI. K.M.FAISAL, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
11.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**"C R"**

**P.V. BALAKRISHNAN, J.**

.....  
**W.P.(C) No.40794 of 2024**  
.....

**Dated this the 11<sup>th</sup> day of March 2026**

**JUDGMENT**

This writ petition is filed by the petitioner seeking a writ of mandamus directing the 2nd respondent not to insist upon the appearance of the Superintending Engineer of Tamilnadu Generation and Distribution Corporation Ltd., who was the employer of the petitioner, for the purpose of registration of a release mortgage/gahan deed in respect of his property.

2. The petitioner, who is a permanent resident of Nilambur Taluk in Malappuram District, was employed as a Commercial Inspector in Chennai Division of Tamil Nadu Generation and Distribution Corporation Limited (Tamil Nadu Electricity Board) (for short, 'TNEB'). In order to construct a residential building, the petitioner mortgaged his property having an extent of 10 cents of land in Re.Sy.No.879/Pt with the TNEB, in the year 2007. Subsequently, the petitioner also availed another loan for improvement of his residence. The petitioner thus executed two mortgage deeds as document Nos.5758/2007 and 4895/2013



before the 2nd respondent, Sub Registrar, for the said purpose. Thereafter, the petitioner cleared the entire loan amount and the creditor acknowledged the same as per Ext.P2. But when the petitioner presented Ext.P2 before the 2nd respondent, along with Ext.P3, the 2nd respondent informed the petitioner, as per Ext.P3 that the executant of the document, who is the Superintending Engineer of TNEB, is required to be present before him and that the petitioner is also required to pay the stamp duty for registration of the gahan release. It is in such circumstances that the petitioner approached this Court by filing this writ petition.

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

4. The learned counsel for the petitioner submitted that the 2<sup>nd</sup> respondent cannot insist on the presence of the Superintending Engineer of TNEB for executing the document pertaining to release of mortgage/gahan since, Ext.P3 shows that he is an exempted officer falling under Section 88 of the Registration Act, 1908. He also submitted that, due to the act of the 2nd respondent, the petitioner is put to task and is facing much difficulty in dealing with the properties.



5. The learned Government Pleader submitted that, as per Section 32 of the Registration Act, the person executing the document, or any of his representatives duly authorised, has to be compulsorily present at the time of registration and that the Superintending Engineer of TNEB cannot be considered as an officer falling under the exempted group under Section 88(1) of the Registration Act since, the notification relied on is not issued by the State of Kerala.

6. On an anxious consideration of the rival submissions and the materials on record, I find considerable force in the submissions made by the learned counsel for the petitioner. Section 88(1) of the Registration Act, 1908 reads as follows:-

**“Section 88. Registration of documents executed by Government officers or certain public**

**functionaries.—(1)** Notwithstanding anything contained in this Act, it shall not be necessary for,—

- (a) any officer of Government, or
- (b) any Administrator-General, Official Trustee or Official Assignee, or
- (c) the Sheriff, Receiver or Registrar of a High Court, or
- (d) the holder for the time being of such other public office as may be specified in a notification in the Official Gazette issued in that behalf by the State Government,



to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him or in his favour, in his official capacity, or to sign as provided in section 58.”

7. A reading of this Section shows that it exempts certain category of persons from appearance for registration. Apart from the officers of the Government, the Administrator-General, Receiver, Registrar of a High Court etc, the holders of public offices as may be specified in a notification in the Official Gazette issued in that behalf by the State Government are also included in the category. It is to be borne in mind that the *Registration Act, 1908* is a Central legislation having uniform application throughout the country. Consequently, the exemption provided under Section 88 of the said Act operates irrespective of the State in which the document is presented for registration. Therefore, the procedure contemplated under Section 88 cannot be curtailed merely on the ground that the category of persons mentioned therein are stationed in a State different from the one where registration is sought. A reading of the provision in its entirety would indicate that the exemption is intended to cover officers of the Government, whether of the Union or of the States, including the Administrator-General, Official Trustee,



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Official Assignee, and also the Sheriff, Receiver, or Registrar of a High Court of different States. Further, as provided under Section 88(1)(d), an officer holding a public office who has been specified in a notification issued by the concerned State Government would also fall within the category of officers exempted from personal appearance before the registering authority. At this juncture, it is also relevant to note that the notification contemplated under Section 88(1)(d) can be issued only by the State Government within whose jurisdiction such officer is functioning. If that be so, an officer who is exempted from personal appearance by virtue of a notification issued by the competent State Government would necessarily fall within the ambit of Section 88(1)(d) of the Act. Since the notification in the present case has been issued by the competent Government of the State where the officer concerned is serving, the benefit of the exemption cannot be denied. In other words, if an officer of the Government of Tamil Nadu executes a document in his official capacity and the same is presented for registration in the State of Kerala, the registering authority in Kerala cannot insist upon his personal appearance.

Therefore, this writ petition is allowed in part as follows:



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There will be a direction to the 2<sup>nd</sup> respondent to act upon Exts.P2 and P3 and register the deed of release/gahan within a period of one month from the date of receipt of a certified copy of this judgment, subject to the payment of requisite stamp duty and charges prescribed by the Act and Rules.

Sd/-

**P.V. BALAKRISHNAN,  
JUDGE**

RMV



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APPENDIX OF WP(C) NO. 40794 OF 2024

PETITIONER EXHIBITS

- Exhibit P-1                    TRUE COPY OF THE IDENTITY CARD  
ISSUED BY THE TAMIL NADU ELECTRICITY  
BOARD TO THE PETITIONER, DATED  
1.4.2011.
- Exhibit P-2                    TRUE COPY OF THE ACKNOWLEDGMENT OF  
DEBT ISSUED BY THE COMPETENT  
AUTHORITIES UNDER TNEB, DATED  
NOVEMBER, 2023
- Exhibit P-3                    TRUE COPY OF THE LETTER ISSUED BY  
THE SUPERINTENDING ENGINEER, TNEB,  
DATED 21.11.2023.
- Exhibit P-4                    TRUE COPY OF THE MEMO INTIMATING THE  
INFORMATION, DATED 12.1.2023.