

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Crl.MC.No. 2380 of 2014 ()

IN MC 49/2014 of SUB.DVL.MAGI.COURT,FORT COCHIN

PETITIONER(S)/PETITIONER/A'PARTIES NO. 1 TO 6:

1. **A.A. ASLAM**
S/O. AZEEZ, CC 13/186-A, PANAYAPALLY
MATTANCHERY, KOCHI, PIN 682002.
2. **V.C.A.KOYA**
CC 13/421, M.K.SREENIVASAN ROAD, AMMAYIMUKKU
MATTANCHERY, KOCHI-682002.
3. **RAFEEQ NAINA**
CC 13/421, AISHA MANZIL, NEAR CHEMPITTAPALLY
MATTANCHERY, KOCHI, PIN 682002.
4. **NAZEER**
CC 13/206-C, NEAR CHMEPITTAPALLY, MATTANCHERY
KOCHI, PIN 682002.
5. **THAIA C.M.**
CC 13/558, CHITTUPARAMBIL, AMMAYIMUKKU
MATTANCHERY, KOCHI, 682002.
6. **RASHEED NAINA**
CC/1332, CHITTUPALLIL, MATTANCHERY.

BY ADV. SRI.R.O.MUHAMED SHEMEEM

RESPONDENT(S)/RESPONDENTS/COMPLAINANTS:

1. **SUB DIVISIONAL MAGISTRATE**
FORTKOCHI, KOCHI-682001.
2. **SUB INSPECTOR OF POLICE**
MATTANCHERY POLICE STATION, MATTANCHERY, KOCHI
PIN-682002.

3. **M.M.HAMSA**
S/O. MAKKAR, CC NO. 13/369, K.C. ROAD
AMMAYIMUKKU, MATTANCHERY, KOCHI
PIN-682002.
4. **A.A.NAZAR**
S/O. ABDUL AZEEZ, CC NO. 13/112-A
CHEMPITTAPALLY JUNCTION, MATTANCHERY, KOCHI
PIN-682002.
5. **SALAM**
S/O. HUSSAIN, CC NO. 12/908, KAPPALANDIMUKKU
MATTANCHERY, KOCHI, PIN-682002.
6. **A.ISMAYIL**
S/O. ABOOBACKER, CC NO. 07/1047, KAPPALANDIMUKKU
MATTANCHERY, KOCHI, PIN-682002.
7. **STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. PUBLIC PROSECUTOR SRI.GITHESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 2380 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE 1- ORIGINAL OF ORDER DATED 26-03-2014 IN MC 49 OF 2014 OF 1ST RESPONDENT.**
- ANNEXURE 2- TRUE COPY OF THE PLAINT IN WOS NO. 12 OF 2011 OF THE WAKF TRIBUNAL AT ERNAKULAM.**
- ANNEXURE 3- TRUE COPY OF THE WRITTEN STATEMENT IN WOS NO. 12 OF 2011 OF THE WAKF TRIBUNAL AT ERNAKULAM.**
- ANNEXURE 4- TRUE COPY OF THE REPORT OF THE 2ND RESPONDENT SUBMITTED TO THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

ALEXANDER THOMAS, J.

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Crl.M.C.No.2380 of 2014

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Dated this the 31st day of July, 2015

ORDER

The matter in issue raised in this Criminal Miscellaneous Case is covered against the respondents–State by the legal principles laid down by this Court in Santhosh v. State of Kerala reported in 2014(3) KLT 837 as well as the judgment dated 19.12.2014 of this Court rendered in the case Sajeesh.K v. State of Kerala in Crl.M.C.No.7259/2014 and connected cases reported in 2014 SCC Online Ker. 27899 dealing with similar impugned proceedings under Sec.107 of the Code of Criminal Procedure. The impugned order in this case is similar or almost identical to the one considered in the above said reported rulings of this Court. Moreover, it is seen from the impugned Annexure A1 order dated 26.03.2014 and the maximum one year currency period of that proceedings has already expired long ago, the said order has become unenforceable.

2. Accordingly, in tune with the directions issued by this Court in the said reported decisions, the impugned order in this

case is quashed with liberty to the Sub Divisional Magistrate concerned to take fresh action, if actually necessary, after complying with all the statutory procedural requirements and after applying the legal principles laid down in the aforementioned reported rulings of this Court and in accordance with law.

With these observations and directions, the Crl.M.Cs stand finally disposed of.

Sd/-
ALEXANDER THOMAS
JUDGE

VS