

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

CRP.No. 335 of 2013 ()

AGAINST THE ORDER DATED 20.3.2013 IN I.A.NO.1549/2011 IN I.A.NO.518/2010 IN OS
NO. 40/2008 OF THE SUB COURT, KOCHI

REVISION PETITIONER(S)/PETITIONER/RESPONDENT/DEFENDANT:

1. KUNJUMON, AGED 52 YEARS, (DIED)
S/O.KANNAN, VYPPITHARA HOUSE, PUTHUVYPE DESOM,
PUTHUVYPE VILLAGE, PUTHUVYPE P.O., ERNAKULAM DISTRICT,
PIN - 682 508.
- *2. SAROJINI KUNJUMON,
AGED 50, W/O.KUNJUMON,
VYPPITHARA HOUSE,
PUTHUVYPE DESOM, PUTHUVYPE VILLAGE,
PUTHUVYPE P.O, ERNAKULAM DISTRICT, PIN - 682 508.
- *3 KEDAR V.KUNJUMON,
AGED 11 YEARS, S/O.KUNJUMON,
VYPPITHARA HOUSE, PUTHUVYPE DESOM,
PUTHUVYPE VILLAGE, PUTHUVYPE P.O,
ERNAKULAM DISTRICT, PIN - 682 508.
REPRESENTED BY HIS MOTHER AND NEXT FRIEND,
SAROJINI KUNJUMON, W/O KUNJUMON,
VYPPITHARA HOUSE, PUTHUVYPE VILLAGE,
PUTHUVYPE P.O, ERNAKULAM DISTRICT PIN - 682 508.

*(ADDL.P2 AND P3 ARE IMPEADED AS THE LEGAL HEIRS OF THE
DECEASED 1ST PETITIONER VIDE ORDER DATED 6.11.2014 IN I.A.NO.2645/14)

BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.
SRI.JOBI.A.THAMPI
SMT.ASHIFA YOUSEFF
SMT.M.KABANI DINESH
SMT.SITHARA SHAMSUDEEN

RESPONDENT(S)/RESPONDENT/PETITIONER/PLAINTIFF:

K.P.JOSEPH, AGED 67 YEARS,
S/O.LATE K.P.POULOSE, KACHAPILLY VEETIL,
KANAYANNURE TALUK, ERNAKULAM VILLAGE,
THRIKANAVATTOM DESOM, ERNAKULAM NORTH, PIN - 682 018.

R BY ADVS.SRI.P.VISWANATHAN
SRI.K.C.BIJU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
25-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- ANNEXURE A1: PHOTOGRAPH OF THE RESIDENTIAL HOUSE
DEMOLISHED BY THE RESPONDENT.**
- ANNEXURE A2: PHOTOGRAPH OF THE RESIDENTIAL HOUSE
DEMOLISHED BY THE RESPONDENT.**
- ANNEXURE A3: PHOTOGRAPH OF THE RESIDENTIAL HOUSE
DEMOLISHED BY THE RESPONDENT.**
- ANNEXURE A4: TRUE COPY OF THE NEWS ITEM PUBLISHED IN THE
MALAYALA MANORAMA DAILY DATED 16.5.2013.**

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN, J.

C.R.P.No.335 of 2013

Dated this the 25th day of September, 2015

ORDER

- 1.This revision petition is filed by the judgment debtor in a suit for specific performance of a contract for sale. The property covered by the decree which is an award of a Lok Adalath is shown to have been delivered. The judgment debtor filed an application under Section 47 of Code of Civil Procedure. That stands dismissed. Hence, this revision.

- 2.Section 47 CPC deals with adjudication of all questions in relation to execution, discharge and satisfaction of decrees. In the case in hand, what was under challenge before the court below is as to whether in passing the order for delivery and in having it effected, did the court below exceed its jurisdiction in terms of the decree. There is no plea of excessive execution or

any other ground raised by the judgment debtor as could be related to Section 47 CPC, though there is an apparent dispute as to the identity of the property in the sense, the delivery report tends to show that there was also a building in the property that has been delivered. Though the contract for sale and the consequential award of the Lok Adalath and subsequent sale deed do not refer to any building but only a parcel of land, the question will be as to whether the so-called building is within the land that could be identified on the basis of the contract for sale and the decree consequent on the Lok Adalath award. That needs to be ascertained so that rights of parties can be completely decided in that regard.

3. For the aforesaid purpose, the impugned order is vacated, preserving all other findings and directing that the court below will issue a commission to identify the property on the basis of the contract for sale and the Lok Adalath award and consequential decree and also on the basis of the sale deed executed through the court and the delivery report. Necessary support of the survey official can also be obtained in the light

of the fact that the Village Officer's report and sketch is already available before the court below. The court below will make an endeavor to dispose of the matter finally, within a period of three months from the date of receipt of a copy of this judgment. Revision petition is ordered accordingly.

Parties are directed to mark appearance before the court below on 12.11.2015.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG