

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

CRP.No. 357 of 2015 (D)

AGAINST THE ORDER IN I.A.NO.1506 OF 2014 IN O.S. NO.367/1999 of MUNSIF
COURT,ALUVA DATED 04-03-2015

REVISION PETITIONERS/RESPONDENTS 3, 4, 5
(LEGAL HEIRS OF THE ORIGINAL DEFENDANT):

1. DANIEL
S/O.LATE JACOB, KADAMBELIL HOUSE, THURAVOOR KARA
THURAVOOR VILLAGE, ALUVA TALUK
2. LISSY
W/O.LATE JOSE, KADAMBELIL HOUSE, THURAVOOR KARA
THURAVOOR VILLAGE, ALUVA TALUK.
3. JAKSON
S/O.LATE JOSE, KADAMBELIL HOUSE, THURAVOOR KARA
THURAVOOR VILLAGE, ALUVA TALUK.

BY ADVS.SRI.E.C.POULOSE
SMT.BOBMY RAPHEAL.C
SMT.ANGELY CHERIAN

RESPONDENTS/PETITIONER & 6TH RESPONDENT/PLAINTIFF:

1. C.A.WILSON
S/O.ANTONY, CHITTHILAPPILLY, VALIYAPARAMBIL
KUTTOOR DESOM, KUTTOOR VILLAGE, THRISSUR TALUK-680 013
2. JERIN,
D/O.LATE JOSE, KADAMBELIL HOUSE, THURAVOOR KARA
THURAVOOR VILLAGE, ALUVA TALUK-680 013.

BY ADVS. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18-
12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

cms

K.ABRAHAM MATHEW J.

C.R.P.No.357 of 2015

Dated this the 18th day of December, 2015

ORDER

Petitioners are the legal heirs of the defendant in O.S.No.367 of 1999 filed by the first respondent for specific performance of an agreement for sale. A decree was passed on 5.4.2002. In the decree the relief granted is mandatory injunction instead of specific performance. So the first respondent filed I.A.No.1506 of 2014 to correct the mistake in the decree. This has been allowed by the learned Munsiff. Its correctness is challenged.

2. Heard the learned counsel for the petitioners and the first respondent.

3. There cannot be any controversy that the decree passed by the trial court is wrong in as much as instead of a decree for specific performance it has passed a decree for mandatory injunction. Once it is brought to the notice of the court, the mistake can be corrected even without an application. There is no limitation also for it. The petitioners cannot feel aggrieved by the correction. But their apprehension is that the first respondent who has failed to comply with the directions in the decree may take the benefit of the amendment after long 12 years. There is no foundation for such apprehension. The mere amendment of the decree will not confer any right on the first respondent-plaintiff which he is not otherwise entitled to.

In the result, this Original Petition is disposed of with the above direction.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge