

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

CRP.No. 513 of 2015 ()

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AGAINST THE ORDER DATED 31/08/2015 IN E.P. NO.196/2013 IN O.S. NO.321/1993 OF
PRINCIPAL SUB COURT, THALASSERY.**

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REVISION PETITIONER/DECREE HOLDER/PLAINTIFF:

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KAPPADAN NELLIKKA DAMODARAN,
S/O KUNHAMBU, AGED 86 YEARS,
SUMADHURA, KADIRUR AMSOM,
ANIKKAMPOYIL DESOM, THALASSERY TALUK.**

**BY ADVS.SRI.C.P.PEETHAMBARAN,
SMT.MINI.V.A.**

RESPONDENT/JUDGMENT DEBTOR/3RD DEFENDANT:

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ERAYI KUNHAMBU,
S/O MULLAN KITTAN, KADIRUR AMSOM,
ANIKKAMPOYIL DESOM, THALASSERY TALUK, PIN-670 642.**

BY ADV. SRI.R.SURENDRAN.

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

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| ANNEXURE A1 | COPY OF THE COMMON JUDGMENT DATED 22/06/2000 IN O.S. NO.321 AND 322 OF 1993 OF PRL. SUB COURT, THALASSERY. |
| ANNEXURE A2 | COPY OF THE COMMON JUDGMENT DATED 05/06/2004 IN AS. NO.134 AND 137 OF 2000 OF ADDL. DISTRICT COURT, THALASSERY. |
| ANNEXURE A3 | COPY OF THE E.P. NO.196/2013 IN O.S. NO.321/1993 FILED BY THE REVISION PETITION BEFORE THE SUB COURT, THALASSERY. |
| ANNEXURE A4 | COPY OF THE COMMISSIONER'S REPORT AND PLAN IN E.P. NO.196/2013 IN O.S. NO.321/1993 OF SUB COURT, THALASSERY. |
| ANNEXURE A5 | COPY OF THE OBJECTION FILED BY THE RESPONDENT HEREIN IN EP.NO.196/2013 IN O.S. NO.321/1993 BEFORE THE ADDL. SUB COURT, THALASSERY. |
| ANNEXURE A6 | COPY OF THE ORDER DATED 29/04/2014 OF THE DISTRICT COURT, THALASSERY. |
| ANNEXURE A7 | COPY OF THE DEPOSITION OF THE PETITIONER IN E.P. NO.196/2013 IN O.S. NO.321/1993 BEFORE THE ADDL. SUB COURT, THALASSERY. |
| ANNEXURE A8 | COPY OF THE AFFIDAVIT DATED 21/08/2014 SUBMITTED BY THE REVISION PETITIONER BEFORE THE ADDL. SUB COURT, THALASSERY IN E.P.196/2013 IN O.S. NO.321/1993. |
| ANNEXURE A9 | COPY OF THE COMMON ORDER DATED 16/07/2015 IN EA. NOS.200/2013, 9/2015, 10/2015 & 11/2015 IN E.P. NO.196/2013 OF PRINCIPAL SUB COURT, THALASSERY. |

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

K.ABRAHAM MATHEW J.

C.R.P. No.513 of 2015

Dated this the 18th day of November, 2015

ORDER

Petitioner is the decree holder in E.P.No.196 of 2013. The decree is for perpetual and mandatory injunctions. He complained of violation by the respondents. Evidence was recorded. Thereafter, the petitioner remained absent. So the learned Sub Judge dismissed the E.P for default. Its illegality is challenged.

2. Heard.

3. I have no doubt that the order passed by the learned Sub Judge is illegal. After the evidence has been recorded the proceedings cannot be dismissed for default. The learned Sub Judge should have disposed of the matter on merits.

In the result, this C.R.P is allowed. The impugned order is set aside. The learned Sub Judge is directed to dispose of the matter on merits.

**K.ABRAHAM MATHEW
JUDGE**