

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

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

CRP.No. 62 of 2014 ()

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AGAINST THE JUDGMENT DATED 11.10.2013 IN C.M.A.39/2013 IN I.A.294/2012  
IN O.S.NO.51/2011 ON the FILE OF THE COURT OF THE ADDITIONAL DISTRICT  
JUDGE, TIRUR AND ORDER DATED 18.02.2012 IN I.A.NO.294 OF 2012 IN  
OS 51/2009 of MUNSIF COURT, TIRUR.

PETITIONERS/RESPONDENTS 17 AND 27/DEFENDANTS 17 AND 27:  
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1. PARAPPIL HAMZA  
S/O.ENI HAJI, TIRUNAVAYA AMSOM, PALLAR DESOM  
TIRUR TALUK, MALAPPURAM DISTRICT.
  2. PARAPPIL ABDU  
S/O.KUNHAHAMMED, TIRUNAVAYA AMSOM, PALLAR DESOM  
TIRUR TALUK, MALAPPURAM DISTRICT.
- BY ADVS.SRI.T.KRISHNAN UNNI (SR.)  
SRI.SAJU.S.A  
SMT.P.A.SHEEJA  
SRI.K.C.KIRAN

RESPONDENTS/APPELLANTS/PLAINTIFFS:  
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1. ETTUVEETIL SUBAIDA  
W/O.POOPARAMBIL DECEASED KADERKUTTY  
THIRUNAVAYA AMSOM, PALLAR DESOM, TIRUR TALUK  
MALAPPURAM DISTRICT PIN-676 301.
2. POOPARAMBIL ANOOP MOOSAKUTTY  
S/O.POOPARAMBIL DECEASED KADERKUTTY  
THIRUNAVAYA AMSOM, PALLAR DESOM, TIRUR TALUK  
MALAPPURAM DISTRICT PIN-676 301.
3. POOPARAMBIL RANEES MUHAMMED  
S/O. POOPARAMBIL DECEASED KADERKUTTY  
THIRUNAVAYA AMSOM, PALLAR DESOM, TIRUR TALUK  
MALAPPURAM DISTRICT PIN-676 301.
4. POOPARAMBIL SHIBI JAHAMGIR  
S/O. POOPARAMBIL DECEASED KADERKUTTY  
THIRUNAVAYA AMSOM, PALLAR DESOM, TIRUR TALUK  
MALAPPURAM DISTRICT PIN-676 301.

5. POOPARAMBIL ROSNA RANI  
(REPRESENTED BY POWER OF ATTORNEY HOLDER  
2ND RESPONDENT ANOOP MOOSAKUTTY  
THIRUNAVAYA AMSOM, PALLAR DESOM, TIRUR TALUK  
MALAPPURAM DISTRICT PIN-676 301.

R1,2,3,4,5 BY ADV. SRI.T.SETHUMADHAVAN (SR.)  
R1,R2,R3,R4,R5 BY ADV. SMT.N.DEEPA  
R1,R2,R3,R4,R5 BY ADV. SRI.K.JAYESH MOHANKUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31-07-2015,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**SUNIL THOMAS, J.**

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**C.R.P.No.62 of 2014**

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Dated this the 31<sup>st</sup> day of July, 2015

**ORDER**

This revision is at the instance of the defendants 17 and 27, challenging the judgment of the District Court in C.M.A.No.17 of 2012 by which an Official Receiver was appointed.

2. The suit was one for redemption of a mortgage. The plaintiff filed I.A.No.294 of 2012 seeking appointment of a Receiver which was not accepted by the learned Munsiff. It was taken in appeal to the District Court. The appellate court held that, it would be just and convenient to appoint the Official Receiver for the purpose of administration of the property.

3. Having heard both sides at length, it has been brought out that the total land, which is the subject matter of the mortgage, has 8 items, having a total extent of about 8 Acres. The main income from the property appears to be the income generated by permitting local vendors to construct stalls during the festival in the nearby Vairamkode Sree Bhagavathy temple. This is assailed specifically on the ground that the income generated from the property will not be sufficient for the receivership and that mortgagee was in possession from 1979 onwards uninterruptedly. Considering the entire facts

and the fact that the mortgagee is essentially entitled to retain possession till the mortgage is redeemed through the process of Court, but at the same time to maintain proper accounts, I feel that it will be essential in the interest of the parties that the order is set aside and the revision petitioners/defendants are permitted to continue in possession as party receiver. They will be liable to account at regular intervals, details of which shall be fixed by the trial court.

In the result, C.R.P is allowed to the extent of modifying the order of appointing Official Receiver and the defendants (revision petitioners) are appointed as party receiver till appropriate orders are passed by the court below. The details regarding the accounting shall be worked out by the trial court itself including the deposit of money, if any, before the court below. Court below shall expedite the trial of the suit, at any rate, to be completed within a period of six months from the date of receipt of a copy of this order.

Sd/-

**SUNIL THOMAS**  
**Judge**

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