

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYASHTA, 1937

CRP.No. 347 of 2014 ()

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AGAINST THE ORDER IN CMA 3/2014 of SUB COURT, CHAVAKKAD DATED 11-04-2014.  
I.A NO.4744/2013 IN OS NO.1025/2013 OF MUNSIFF COURT, CHAVAKKAD.

REVISION PETITIONERS/RESPONDENTS/PLAINTIFFS:

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1. SUBAIDA, AGED 72 YEARS,  
W/O. KOOLIYATTIL SAIDALAVI, VAILATHUR AMSOM,  
NHAMANANGHAT DESOM, CHAVAKKAD TALUK, THRISSUR DISTRICT,  
REP. BY POWER OF ATTORNEY HOLDER,  
KOOLIYATTIL MOHAMMED AYOOB.
  2. KOOLIYATTIL MOHAMMED AYOOB, S/O. SAIDALI, AGED 49 YEARS.
  3. KOOLIYATTIL BABY HYDROSE, AGED 48 YEARS,  
S/O. SAIDALI, REP. BY POWER OF ATTORNEY HOLDER,  
KOOLIYATTIL MOHAMMED AYOOB.
  4. KOOLIYATTIL PHARIDA RAHNA, AGED 46 YEARS,  
D/O.SAIDALI, REP. BY POWER OF ATTORNEY HOLDER  
KOOLIYATTIL MOHAMMED AYOOB.
  5. KOOLIYATTIL MUHAMMED FAISAL, AGED 44 YEARS,  
S/O. SAIDALI, REP. BY POWER OF ATTORNEY HOLDER,  
KOOLIYATTIL MOHAMMED AYOOB.

ALL ARE RESIDING AT VAILATHUR AMSOM NHAMANANGHAT DESOM,  
CHAVAKKAD TALUK, THRISSUR DISTRICT, PIN-679 563.

BY ADV. SRI.JACOB SEBASTIAN.

RESPONDENTS/APPELLANTS/DEFENDANTS:

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1. MUSTAFA, S/O. VALANGATTIL KADER HAJI,  
VAILATHUR AMSOM, NHAMANANGHAT DESOM,  
CHAVAKKAD TALUK, THRISSUR DISTRICT PIN-679 563.
  2. THONIYARAYIL ABDULKALAM, S/O. VALANGATTIL KADER HAJI,  
VAILATHUR AMSOM, NHAMANANGHAT DESOM,  
CHAVAKKAD TALUK, THRISSUR DISTRICT. PIN-679 563.
  3. MAIMOONA,D/O. VALANGATTIL KADER HAJI,  
W/O. KUNJIMUHAMMED, VALAKKATTIL VEETIL,  
VADAKKEKKATTIL HOUSE, VAILATHUR AMSOM, NHAMANANGHAT DESOM,  
CHAVAKKAD TALUK, THRISSUR DISTRICT, PIN-679 563.

BY ADV. SRI.V.BINOY RAM.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
28-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**A.HARIPRASAD, J.**

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**C.R.P No.347 of 2014**

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**Dated this the 28<sup>th</sup> day of May, 2015.**

**ORDER**

Revision petitioners are the plaintiffs in a suit for injunction against the respondents restraining them from drawing water from a pond said to be commonly set-apart to the parties in a partition deed of the year 1962. Plaintiffs are the legal representatives of an original party in the deed, whereas the defendants are the assignees from one of the sharers in the partition deed.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

3. After hearing the counsel on both sides and on perusal of the impugned judgment, I am of the view that the question that comes up for decision is regarding the interpretation of clause in Ext.A1 partition deed relating to the right of parties to draw water from the pond. I am of a considered opinion that the matter can be decided only in a full-fledged trial.

4. Learned counsel for the petitioners submitted that at the time when the revision petition was moved, this Court passed an interim order restraining the respondents/defendants from drawing water from the pond by using a motor pump. Learned counsel for the petitioners submitted that the said order should be retained otherwise, the plaintiffs will be put to prejudice. Learned counsel further submitted that the defendants have another source of water in their own property. Considering the entire matters, the revision petition is disposed with a direction to the trial court to try and dispose of the case as expeditiously as possible, at any rate, within a period of six months from the date of production of this order. In the meantime, the interim order passed by this Court shall continue till the disposal of the suit by the trial court.

All pending interlocutory applications will stand dismissed.

Sd/-  
**A.HARIPRASAD,**  
**JUDGE.**