

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS**

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

FAO.No. 285 of 2012 ()

(I.A.NO.650/2012 DT:12.09.2012 IN O.S.NO.243/2012 OF SUB JUDGE ALAPPUZHA)

APPELLANT(S)/PETITIONERS-PLAINTIFFS :

1. JOSE MATHEW, AGED 58 YEARS,
S/O.V.J.MATHEW, RESIDING AT VADAKKEKALAM,
DARAHSMAIL COMPOUND, SEA VIEW WARD, ALAPPUZHA MURI,
ALAPPUZHA WEST VILLAGE, ALAPPUZHA.
2. JOJI MATHEW, AGED 48 YEARS,
S/O.V.J.MATHEW, RESIDING AT VADAKKEKALAM, GREEN VILLA,
SEA VIEW WARD, ALAPPUZHA MURI,
ALAPPUZHA WEST VILLAGE, ALAPPUZHA.

BY ADV. SRI.K.V.SADANANDA PRABHU

RESPONDENT(S)/CR.PETITIONERS -DEFENDANTS :

1. SASIKALAVATHY, AGED 56 YEARS
W/O.THANKAVELU, HOUSE NO.19, ARUMUKHAM NAGAR,
MAHALINGAPURAM, POLLACHI-642001.
2. T.RAHUL RAJ , AGED 21 YEARS
S/O. SASIKALAVATHY & THANKAVELU, HOUSE NO.19
ARUMUKHAM NAGAR, MAHALINGAPURAM, POLLACHI-642001.

R1 & R2 BY ADV. SRI.R.AZAD BABU

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

THOTTATHIL B.RADHAKRISHNAN
&
SUNIL THOMAS, JJ.

.....
F.A.O. No. 285 of 2012
.....

Dated this the 15th day of June, 2015

JUDGMENT

Thottathil B.Radhakrishnan, J.

Heard.

2.This appeal is against an interlocutory order by which the court below dismissed an application for temporary injunction in a suit for specific performance of a contract for sale. The court below has made specific reference to the provisions of the contract and had indicated different aspects on the issue as to whether there was due performance of the terms by either of the parties.

3.When this appeal was admitted on 25.09.2012, an ad interim order of temporary injunction was issued restraining the respondents or persons claiming under them from alienating or creating any document of transfer in respect of the plaint schedule property and also from committing any act of waste and mischief therein. That order was extended from time to time and stands extended until further orders. There is also a failed mediation in the appellate jurisdiction.

4. On the whole, we are satisfied that the ends of justice require that the interlocutory order granted by this Court on I.A.No.1325 of 2012 is made absolute, till the disposal of the suit and the trial court has to decide the suit untrammelled by anything stated in the order impugned in this appeal or by the fact that an interlocutory order was granted pending this appeal.

In the result, this appeal is ordered directing that the trial court will proceed to decide the suit untrammelled by anything stated in the order impugned or by the fact that an interlocutory order was granted in this appeal, however that, the said interlocutory order granted by this Court on I.A. No.1325 of 2012 will remain absolute, till the disposal of the suit by the court below.

sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

sd/-
(SUNIL THOMAS, JUDGE)