

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

FAO.No. 87 of 2015 ()

(I..A.NO.1725/2014 IN O.S.NO.84/2014 BEFORE THE
PRINCIPAL SUB COURT, IRINJALAKKUDA)

APPELLANT/PETITIONER

C.V.VENU, S/O.VAMANAN, BUSINESS, AGED 48 YEARS
CHITTAYIL HOUSE,
VADUTHALA DESOM, VADUTHALA P.O.,
CHERANELLOOR VILLAGE, KANAYANNOOR TALUK
ERNAKULAM DISTRICT, PIN - 682 023.

BY ADV. SRI.SHIJU VARGHEESE

RESPONDENTS/RESPONDENTS:

1. MARGRET PERERA, D/O.FRANCIS FURTADO, AGED 46 YEARS,
HOME MAKER,
KALAVARA PARAMBIL HOUSE, PADIYOOR P.O., PADIYOOR DESOM
PADIYOOR VILLAGE, MUKUNDAPURAM TALUK
THRISSUR DISTRICT - 680 695.

2. MARY CRISPIN KARMALO, D/O.FRANCIS FURTADO, AGED 44
YEARS,
HOME MAKER, PULIYANATHU PARAMBIL, RAMESWARAM VILLAGE
KOCHI TALUK, ERNAKULAM DISTRICT - 683 515.

R1-R2 BY ADV. SRI.K.S.BHARATHAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

F.A.O.No.87 OF 2015

Dated this the 22th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed challenging the order in I.A.No.1725/2014 in O.S.No.84/2014 pending before the Sub Court, Irinjalakkuda. The appellant is the plaintiff in the suit. The application was filed under Order XXXIX Rule 1 and 2 and Section 151 of the Code of Civil Procedure. The specific interim order sought was to grant an injunction restraining the respondents from alienating the plaint schedule property.

2. The learned Judge rejected the prayer and mainly it is a case where the first respondent before the court below stated in the counter that she is not intending to alienate the property. It is also reported that the property is having liability in the Service Co-operative Bank, whereby the original documents are kept in the said bank.

3. While admitting the appeal, this Court passed the following order in I.A.No.454/2015 :

“ Issue urgent notice returnable in ten days to the respondents. There will be an interim order of injunction restraining the respondents from alienating the plaint schedule property in O.S.No.84/2014 on the file of the Court of the Additional Subordinate Judge of Irinjalakkuda for a period of two months.”

4. Heard the learned counsel on both sides.

5. The learned counsel for the appellant raised arguments on the necessity to have the interim order to continue, whereas the learned counsel for the respondent opposed the same. According to us, in the light of the submission made by the respondents in the counter that they are not proposing to alienate the property and there is liability to the Service Co-operative Bank, an order like this even if it is continued till the disposal of the suit will not prejudice the respondents.

In that view of the matter, we hold that the interim order passed

by this Court will continue till the disposal of the suit and the appeal is accordingly disposed of and the impugned order is modified to that extent. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH, JUDGE

SV.