

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. 339 of 2013 ()

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AGAINST the JUDGMENT IN I.A.NO.1356/12 IN O.S.328/12 OF THE ADDL. SUB  
COURT, PALAKKAD DATED 22.03.2013

APPELLANTS/RESPONDENTS/DEFENDANTS:

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1. NARAYANAN AGED 71 YEARS  
S/O.ANDI, RESIDING AT KALLUVETTUKALAM  
PALLASSENA AMSOM, CHITTUR TALUK

2. KAVITHA  
D/O.NARAYANAN, RESIDING AT DO DO

3. SANGEETHA  
D/O. DOD DO DO

4. KEERTHANA,  
D/O.DO DO DO

BY ADV. SRI.P.R.VENKETESH

RESPONDENT/PETITIONER/PLAINTIFF:

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RAJALEKSHMI  
W/O.UNNIKRISHNAN AND D/O.KUTTAPPAN  
RESIDING AT THOTTAKARA NADU VEED  
THENARI ELAPULLI VILLAGE, PALAKKAD TALUK 678 622

BY ADV. SRI.SAJAN VARGHEESE K  
BY ADV. SRI.LIJU. M.P

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

**THOTTATHIL B. RADHAKRISHNAN &  
SUNIL THOMAS, JJ.**

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**F.A.O.No.339 of 2013**

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Dated this the 15<sup>th</sup> day of June, 2015

**JUDGMENT**

**Thottathil B. Radhakrishnan, J.**

Heard.

2. This appeal is filed by the defendants in a suit for declaration in relation to immovable properties.

3. The plaintiff is the daughter of the first defendant's brother. She sought for a declaration that item Nos.2 and 3 in A schedule exclusively belonged to her and also for consequential injunction. Later, by amendment, supplemental defendants were brought on record. They are the children of the original defendant who is arrayed as the first defendant. The plea projected by the petitioner is one of exchange of different items of immovable properties through oral transaction. Whatever be the merits of the contentions, the trial court stood persuaded to elaborately look into the documentary evidence let in by both sides and also the Commissioner's report. Ultimately, the trial court granted order of temporary injunction as against the first defendant alone. This is appealed by all the defendants. Though the appeal was admitted to

file way back on 26.11.2013, the order of temporary injunction issued by the trial court continued to govern the parties.

4. With the passage of time, we are of the view that the trial of the suit should proceed without delay having regard to the peculiar contentions as between the parties, however that, the observations made in the impugned order should not prejudice any of the parties at trial. We do not find that it would be appropriate to disturb the situation obtained, as of now, by the continued operation of the order impugned.

Under the aforesaid circumstances, this appeal is ordered directing that the court below will endeavour to finally dispose of the suit from which this appeal arises, as expeditiously as possible and would decide the same untrammelled by anything contained in the impugned order.

Sd/-

**THOTTATHIL B. RADHAKRISHNAN**  
**Judge**

Sd/-

**SUNIL THOMAS**  
**Judge**

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