

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

OP(C).No. 1181 of 2013 (O)

OS. NO.122/2010 OF MUNSIF COURT, ADOOR.

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PETITIONER(S):

1. SINDHU, AGED 38 YEARS,
W/O. BABU, RESIDING AT KANNAMKARA KIZHAKKETHIL HOUSE,
MANNADIKIZHAKKU KALAYIKKU PADINJARE MURI,
KADAMPANADU VILLAGE, ADOOR TALUK.
2. BABU, AGED 43 YEARS,
S/O. RAGHAVAN NAIR,
RESIDING AT KANNAMKARA KIZHAKKETHIL HOUSE,
MANNADIKIZHAKKU KALAYIKKU PADINJARE MURI,
KADAMPANADU VILLAGE, ADOOR TALUK.

BY ADVS.SRI.K.SHAJ,
SRI.SAJJU.S.

RESPONDENT(S):

1. SASANKAN NAIR, AGED 43 YEARS,
S/O. RAGHAVAN NAIR, ARAPPURAVILAYIL, MANNADI P.O.,
MANNADI KALAYIKKU PADINJARE MURI,
KADAMPANADU VILLAGE, ADOOR TALUK, PIN-689 621.
2. SANTHOSH KUMAR R., AGED 41 YEARS,
S/O. RAGHAVAN NAIR, SASANKA MANDIRAM, MANNADI P.O.,
MANNADI KALAYIKKU PADINJARE MURI,
KADAMPANADU VILLAGE, ADOOR TALUK, PIN-689 621.
3. M.RAJENDRAN PILLAI, AGED 57 YEARS,
S/O. N.MADHAVAN NAIR, ARAPPURAVILAYIL, MANNADI P.O.,
MANNADI KALAYIKKU PADINJARE MURI,
KADAMPANADU VILLAGE, ADOOR TALUK, PIN-689 621.
4. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
PATHANAMTHITTA-689 645.
5. TAHSILDAR, TALUK OFFICE, ADOOR.

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**6. VILLAGE OFFICER,
KADAMPANADU VILLAGE, KADAMPANADU-689 621.**

**7. JOSEPH MICHAEL, S/O. JOSEPH, AGE NOT KNOWN,
KANDATHIL SINDA BHAVAN, PANNIVIZHA MURI,
ADOOR VILLAGE, ADOOR TALUK, PIN-689 621.**

**R3 BY ADVS. SRI.M.T.SURESHKUMAR,
SRI.V.V.RAJA.
R4 TO R6 BY GOVT. PLEADER SRI.REJI JOSEPH.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 22-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

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APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- THE TRUE COPY OF PLAINT IN O.S.NO. 198/2009 ON THE FILE OF THE MUNSIFF'S COURT, ADOOR.

EXHIBIT P2- THE TRUE COPY OF WRITTEN STATEMENT AND COUNTER-CLAIM IN OS.NO. 198/2009 ON THE FILE OF THE MUNSIFF'S COURT, ADOOR.

EXHIBIT P3- THE TRUE COPY OF THE PLAINT IN OS.NO. 122/2010 ON THE FILE OF THE MUNSIFF'S COURT, ADOOR.

EXHIBIT P4- THE TRUE COPY OF THE AFFIDAVIT AND APPLICATION IN I.A.NO. 1211/2012 IN OS.NO. 122/2010 ON THE FILE OF THE MUNSIFF'S COURT, ADOOR.

EXHIBIT P5- THE TRUE COPY OF THE ORDER DATED 12-03-2013 IN I.A.NO. 1211/2012 IN OS.NO. 122/2010 ON THE FILE OF THE MUNSIFF'S COURT, ADOOR.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

B.KEMAL PASHA, J.

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O.P.(C).No.1181 of 2013

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Dated this the 22nd day of July, 2015

J U D G M E N T

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

2. Exhibit P4 I.A.No.1211 f 2012 was filed by the petitioners herein, seeking a joint trial of O.S.No.122 of 2010 and O.S.No.198 of 2009 of the Munsiff's Court, Adoor. O.S.No.198 of 2009 was filed by the respondents herein as plaintiffs, seeking a decree for declaration of title, fixation of boundaries and for a decree of perpetual injunction. In the said suit, the petitioners entered appearance and raised a counter claim in the written statement. Through the counter

claim, the petitioners have sought for a decree for declaration of their title and cancellation of some documents based on which the plaintiffs in the suit had claimed title. Subsequently, when it was revealed that the property was mutated in favour of the respondents, the present petitioners as plaintiffs, filed O.S.No.122 of 2010 seeking declaration of title as well as the cancellation of mutation.

3. It seems that through Exhibit P5 order, the court below has dismissed the I.A. on the ground that O.S.No.198 of 2009 was a case included in the target for disposal and it is only on that ground, the joint trial was denied.

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

5. On hearing either side and on a perusal of the records, it is evident that both the suits are relating to the very same subject matter. Most of the parties are also common. It true that in the second suit, the Government Officials are also made parties. Considering all these aspects, this Court is satisfied that a joint trial of both these

suits can be ordered and therefore, Exhibit P5 is liable to be set aside.

In the result, this Original Petition (Civil) is allowed. Exhibit P5 stand set aside and Exhibit P4 I.A. stands allowed. The court below is directed to proceed with the joint trial of the suits. Being old suits, the court below shall expedite its disposal.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/22/7/15