

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

OP(C).No. 34 of 2015 (O)

OS. NO.582/2011 OF PRINCIPAL MUNSIF COURT, THIRUVANANTHAPURAM.

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PETITIONER(S)/PETITIONERS:-

1. THULASIDHARAN NAIR, SON OF VELAYUDHAN PILLAI,
AGED 60 YEARS, SANTHI, TC.18/1789(1),
ANNOOR, THIRUMALA P.O., THIRUVANANTHAPURAM.
2. T.S. AJITH KMAR, SON OF THULASIDHARAN NAIR,
AGED 32 YEARS, SANTHI, TC 18/1789(1),
ANNOOR, THIRUMALA P.O., THIRUVANANTHAPURAM,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
THULASIDHARAN NAIR, SON OF VELAYUDHAN PILLAI,
AGED 60 YEARS, SANTHI, TC 18/1789(1), ANNOOR,
THIRUMALA P.O., THIRUVANANTHAPURAM.

**BY ADVS.SRI.V.SURESH,
SRI.G.SUDHEER.**

RESPONDENTS:-

1. N.S. DINESH KUMAR, SON OF SUKUMARAN NAIR,
EASWARAVILASOM VEEDU, TC 26/499,
SECRETARIAT WARD, OOTTUKUZH, Y,
THIRUVANANTHAPURAM-695 001.
2. N.S. RAMESH KUMAR, SON OF SUKUMARAN NAIR,
EASWARAVILASOM VEEDU, TC 26/499,
SECRETARIAT WARD, OOTTUKUZH, Y,
THIRUVANANTHAPURAM-695 001.
3. ASHA NAIR, DAUGHTER OF RADHAMMA,
TC. 26/500, SECRETARIAT WARD,
OOTTUKUZH, Y WARD, PIN-695 001.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY THE 2ND PETITIONER DATED 17.02.2011.
- EXHIBIT P2. TRUE COPY OF THE PLAINT IN O.S.NO.582/2011 FILED BY N.S.DINESH KUMAR AND OTHERS BEFORE THE MUNSIF COURT, THIRUVANANTHAPURAM DATED 02.04.2011.
- EXHIBIT P3. TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONERS IN O.S.NO.582/2011 BEFORE THE MUNSIF COURT, THIRUVANANTHAPURAM.
- EXHIBIT P4. TRUE COPY OF THE ADDL. WRITTEN STATEMENT FILED BY THE PETITIONERS IN O.S.NO.582/2011 BEFORE THE MUNSIF COURT, THIRUVANANTHAPURAM.
- EXHIBIT P5. TRUE COPY OF THE OBJECTION TO PROSECUTION APPLICATION FILED BY THE PETITIONERS IN O.S.NO.582/2011 BEFORE THE MUNSIF COURT, THIRUVANANTHAPURAM WITH COMMISSION REPORT.
- EXHIBIT P6. TRUE COPY OF THE COMMISSION REPORT FILED BY ADVOCATE COMMISSIONER K.BABU IN O.S.NO.582/2011 BEFORE THE PRINCIPAL MUNSIF COURT, THIRUVANANTHAPURAM DATED 16.08.2013.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P.BHAVADASAN, J.

O.P.(C) No. 34 of 2015

Dated this the 09th day of January, 2015

J U D G M E N T

The limited prayer in this original petition under Article 227 of Constitution of India is for a direction to the Principal Munsiff Court, Thiruvananthapuram to take up O.S.No. 582/2011 and dispose it of as early as possible.

2. The suit is one for mandatory injunction in which petitioners are the defendants. The allegation against the petitioners is that they have removed earth from their property causing damage to the property of the plaintiff. Commission has been taken out and he has filed a report and plan. He has suggested putting up of a retaining wall by the defendants. The report also contained the estimate of the costs for the work to be done.

3. The learned counsel appearing for the petitioners pointed out that the matter was sent for mediation but it did not succeed. The petitioners' counsel pointed out that in

view of the pendency of the suit, the construction is in stagnation and that caused considerable loss and injury to them. They therefore pray that there may be a direction to dispose of the suit as early as possible.

4. In the light of the limited nature of prayer made, there is no reason as to why the same should not be granted to the petitioners.

This petition is disposed of by directing the Principal Munsiff Court, Thiruvananthapuram to take up O.S.No. 582/2011 pending before it and complete all steps and dispose of the suit, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge