

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

OP(C).No. 133 of 2015 (O)

AS 119/2009 OF SUB COURT, PAYYANNUR.

.....

PETITIONER:

PALLIVALAPPIL KAMARUDEEN,
S/O.MUHAMMED KUNHI, AGED 74 YEARS,
NEAR NOOR MASJID, KOZHI BAZAR,
MADAYI AMSOM DESOM, P.O.MADAYI,
KANNUR DISTRICT.

BY ADVS.SRI.K.M.MOHAMMED KUNHI
SMT.RUKHIYABI MOHD KUNHI

RESPONDENT:

PALLIVALAPPIL ATHIMA,
D/O.MUHAMMED KUNHI, THOUFEEQUE MANZIL,
NEAR R.C.CHURCH MADAYI AMSOM DESOM,
P.O.MADAYI, KANNUR - 670304.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 19-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

OP(C).No. 133 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 - TRUE COPY OF THE JUDGMENT IN OS NO.88/2007 OF THE MUNSIFF COURT TALIPARAMBA DATED 23.10.2009.**
- EXT.P1(A) - TRUE COPY OF THE DECREE IN OS NO.88/2007 OF THE MUNSIFF COURT TALIPARAMBA DATED 23.10.2009.**
- EXT.P2 - TRUE COPY OF THE APPEAL - A.S NO.119/2009 FILED BEFORE THE SUB COURT PAYYANNUR DATED 18-12-2009.**
- EXT.P3 - TRUE COPY OF THE ORDER IN IA NO.1564/2012 IN AS NO.119/2009 DATED 8-11-2012.**
- EXT.P4 - TRUE COPY OF IA NO.2183/2012 FILED BEFORE THE MUNSIFF COURT TALIPARAMBA DATED 4-7-2012.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.BHAVADASAN, J.

O.P.(C) No. 133 of 2015

Dated this the 19th day of January, 2015

J U D G M E N T

In a suit for partition, a preliminary decree was passed in pursuance to which the plaintiff filed final decree application which is pending consideration. In the meanwhile the aggrieved defendant carried the matter in appeal from the preliminary decree as A.S.No. 119/2009 which is pending before the Sub Court, Payyannur.

2. The petitioner prays that due to the pendency of the proceedings, no finality is capable of being achieved in the final decree proceedings and it is causing irreparable loss and injury to the petitioner. The petitioner therefore prays that there may be a direction to the Sub Court, Payyannur to take up and dispose of A.S.No.119/2009 as early as possible.

3. In the nature of the order that is proposed to be passed, it is felt that notice to the respondent is unnecessary

as no right of the respondent is prejudicially affected by the order.

This petition is allowed and the Sub Court, Payyannur is directed to take up A.S.No.119/2009 as early as possible and dispose it of as expeditiously as possible, at any rate, within a period of four months from the date of receipt of the copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge