

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

OP(C).No. 156 of 2015 (O)

OS. NO.1351/2014 OF FIRST ADDITIONAL MUNSIF COURT, ERNAKULAM.

.....

PETITIONER(S):

**LISSY MATHEW, W/O.MATHEW,
AGED ABOUT 39 YEARS, KIZHUPALLY HOUSE,
CHERUMATTAPUZHA KARA, VAZHAKAL VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT.**

BY ADV. SRI.PEARSON S.FERNANDEZ.

RESPONDENTS:-

- 1. MATHEW VARGHESE, S/O.GEEVARGHESE,
AGED 43 YEARS, 'ILANGAVATH', NJALAKAM KARA,
THRIKKAKARA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**
- 2. ANU MATHEW, W/O.MATHEW VARGHESE,
AGED 39 YEARS, 'ILANGAVATH', NJALAKAM KARA,
THRIKKAKARA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**
- 3. THE THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE,
KAKKANAD, KOCHI - 682 030.**

R3 BY ADV. SRI.S.SHANAVAS KHAN, SC.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE COPY OF THE SALE DEED NO.665/1998 OF THRIKKAKARA SRO.
- EXHIBIT P2. TRUE COPY OF THE SUIT O.S.NO.1351/2014 FILED BY THE RESPONDENTS 1 AND 2 BEFORE THE HONOURABLE FIRST ADDITIONAL MUNSIF COURT, ERNAKULAM.
- EXHIBIT P3. TRUE COPY OF THE INJUNCTION ORDER, DATED 04.12.2014, PASSED BY THE HONOURABLE FIRST ADDITIONAL MUNSIF COURT, ERNAKULAM IN I.A.NO.7757/2014 IN O.S.NO.1351/2014 SERVED ON THE PETITIONER.
- EXHIBIT P4. TRUE COPY OF THE I.A.NO.9743/2014 IN I.A.NO.7757/2014 IN O.S.NO.1351/2014 FILED BY THE PETITIONER BEFORE THE HONOURABLE FIRST ADDITIONAL MUNSIF COURT, ERNAKULAM.
- EXHIBIT P5. TRUE COPY OF THE I.A.NO.390/2015 IN OS.NO.1351/2014 FILED BY RESPONDENTS 1 AND 2 BEFORE THE HONOURABLE FIRST ADDITIONAL MUNSIF COURT, ERNAKULAM.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P.BHAVADASAN, J.

Original Petition (Civil) No.156 OF 2015

Dated this the 20th day of January, 2015.

J U D G M E N T

The limited prayer in this original petition under Article 227 of the Constitution of India is for a direction to the Munsiff Court-II, Ernakulam which is dealing with O.S.No.1351/2014 to issue certified copy of the order in I.A.No.7757/2014 in O.S.No.1351/2014 and till certified copy of the order is issued, to keep in abeyance the proceedings initiated against the petitioner.

2. Ext.P2 is the plaint in question. It seems that the grievance of the plaintiffs was that 1st defendant in the suit, who is the petitioner herein, is putting up construction in violation of the Building Rules and she is trying to obstruct the pathway which is being used by the plaintiffs. Along with the suit, the plaintiffs filed I.A.No.7757/2014 seeking ad interim order of injunction. The court below impressed by the records and also on the submission made on behalf of the plaintiffs thought it necessary to grant ad interim order of injunction and passed

Ext.P3 order. On receipt of Ext.P3 order, according to the petitioner, she filed a review petition and that petition was dismissed. Review was on the ground that the suit is hit by Section 563 of the Kerala Municipality Act, 1994.

3. The petitioner points out that unless she gets a certified copy of Ext.P3 order, she is not in a position to challenge the same before the higher forum and if, in the meanwhile, proceedings for violation of injunction are continued, that will cause irreparable loss and injury to her.

4. After having heard the learned counsel for the petitioner, it is felt that there may be some substance in the grievance voiced by the petitioner.

5. In the nature of the order that is proposed to be passed and since no prejudice is intended to be caused to the respondents, it is felt that notice to the respondents is unnecessary.

This original petition is disposed of directing the Munsiff Court-II, Ernakulam to furnish certified copy of the order in I.A.No.7757/2014 in O.S.No.1351/2014 in case the petitioner

applies for the same within a period of two weeks from the date of receipt of a copy of this judgment, and the proceedings for violation of injunction shall be kept in abeyance for a period of three weeks.

Sd/-

**P.BHAVADASAN
JUDGE**

smp