

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. 157 of 2015 (O)

(AGAINST THE ORDER IN I.A.No.5100/2014 IN OS 275/2002 of
III ADDL.SUB COURT, KOZHIKODE)

PETITIONER:

T.K.GANGAN MENON, AGED 53 YEARS,
S/O. LATE P.K.K. MENON,
THERAMBATTIL HOUSE,
P.O. CHALAPPURAM, KOZHIKODE DISTRICT.

BY ADVS.SRI.K.RAMACHANDRAN
SMT.M.C.BINDUMOL

RESPONDENTS:

1. SANILKUMAR, S/O. RAMANUNNI KUTTY,
EDAKKUNI NEENDOKKIL HOUSE, EYAD DESOM,
SIVAPURAM VILLAGE, QUILANDY TALUK,
P.O. QUILANDY, KOZHIKODE DISTRICT - 673620.
2. RAVINDRAN K.P., S/O. CHATHU, KARUNATHAMPOYIL HOUSE,
CHERUKAD AMSOM, KAYANNA VILLAGE, QUILANDY TALUK,
P.O. QUILANDY, KOZHIKODE DISTRICT - 673620.
3. K.T. KUMARI, AGED 67 YEARS, W/O. KPT NAYAR,
"USHAS", P.O. CHEROOR, THRISSUR DISTRICT,
PIN - 680 008.

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

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF COPLY APPLICATION DTD. 7.6.10 FILED IN O.S.386/2001 BEFORE SUB COURT, THRISSUR.
- EXT. P1(a) : COPY OF PAGE CONTAINING THE ENDORSEMENT "DOCUMENTS ARE PHOTOCOPIES. NOT COMPLIED" DATED 9.6.2010 NOTED ON THE DOCKET SHEET OF EXT.P1.
- EXT. P2 : COPY OF ORDER OF REGISTRAR GENERAL IN RIA (APPEAL) No.22/2011 DTD. 2.10.11.
- EXT. P3 : COPY OF I.A.10760/2011 IN O.S.608/99 DTD. 20.11.11. FILED BEFORE SUB COURT, THRISSUR.
- EXT. P4 : COPY OF I.A.2911/2014 IN O.S.275/2002 DTD.15.7.14 FILED BEFORE SUB COURT, KOZHIKODE.
- EXT. P5 : COPY OF I.A.5100/14 IN O.S.275/2002 DTD.18.12.14 FILED BEFORE SUB COURT, KOZHIKODE.
- EXT. P6 : COPY OF ORDER IN I.A.5100/14 IN O.S.275/02 DTD.8.1.15 OF SUB COURT, KOZHIKODE.
- EXT. P7 : COPY OF AFFIDAVIT IN I.A.5099/14 IN O.S.275/02 DTD. 12.12.14 FILED BEFORE SUB COURT, KOZHIKODE.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.157 OF 2015

Dated this the 20th day of January, 2015.

J U D G M E N T

The petitioner is aggrieved by Ext.P6 order whereby the court below has closed the petition filed by the petitioner to receive photocopies of certain documents in evidence treating the same as secondary evidence on two grounds; one that it is premature and the other leaving it open to be decided at the time of evidence.

2. From the narration of facts and also from the impugned order, it is clear that the petitioner before this Court had taken all steps to have the original produced before the court below and in spite of best efforts he could not do so and under such circumstance he had sought for production of photocopies of documents and receive it in evidence.

3. What the court below has to see is whether the petitioner has satisfied the conditions necessary for production of

primary document and if, as a matter of fact, he has taken all necessary steps to have the original of the documents produced but could not procure it or have it produced, it is trite that secondary evidence can be received.

Setting aside that portion of the order treating the petition as closed and premature, this original petition is disposed of directing that the petition filed by the petitioner shall be kept pending and may be considered at the time of adducing evidence.

Sd/-

P.BHAVADASAN
JUDGE

smp