

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

OP(C).No. 207 of 2015 (O)

IN OS 1079/2009 of II ADDITIONAL MUNSIF COURT, NEYYATTINKARA

PETITIONER(S):

**SANTHI, W/O. IGNACIOUS LEOLA,
PARUTHIYOOR THURAYIL PUTHUVAL PURAYIDOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE,
THIRUVANANTHAPURAM.**

BY ADV. SRI.P.I.GEORGEKUTTY (PUTHANANGADY)

RESPONDENT(S):

- 1. JIJI JERALD, S/O. ALEXANDER JERALD ,
KARTHIKAYIL,
KADAVATTARAM DESOM NEYYATTINKARA,
FROM POYPPALLY VILAKAM DESOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE.**
- 2. NISHA JERALD, D/O. ALEXANDER JERALD,
KARTHIKAYIL,
KADAVATTARAM DESOM NEYYATTINKARA,
FROM POYPPALLY VILAKAM DESOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE.**
- 3. SUSAN JERALD, ALEXANDER JERALD,
KARTHIKAYIL,
KADAVATTARAM DESOM NEYYATTINKARA,
FROM POYPPALLY VILAKAM DESOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE.**
- 4. MATHYAS REJENDRANM, HOUSE NO.IX/8,
PARUTHIYOOR THURAYIL PUTHUVAL PURAYIDOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE. (D1)**
- 5. ALBERT MATHYAS, HOUSE NO. IX/14,
PARUTHIYOOR THURAYIL PUTHUVAL PURAYIDOM,
POZHIYOOR DESOM, KULATHOOR VILLAGE. (D3)**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1: COPY OF THE PLAINT IN O.S. NO. 1079 OF 2009 OF THE II ADDITIONAL MUNSIF COURT, NEYYATTINKARA, DATED 10.12.2009.
- EXT.P2: COPY OF THE WRITTEN STATEMENT AND COUNTER CLAIM FILED BY THE PETITIONER, DATED 12.2009.
- EXT.P3: COPY OF THE PETITION TO REMOVE THE CASE FROM THE LIST, NUMBERED AS I.A. NO. 22 OF 2015, DATED 1.01.2015.
- EXT.P4: COPY OF ADVANCE PETITION NUMBERED AS I.A. NO. 23 OF 2015 DATED 1.1.2015.
- EXT.P5: COPY OF THE PETITION FOR IMPLEADMENT OF ADDITIONAL PARTIES TO THE SUIT DATED 31.12.2014.
- EXT.P6: COPY OF AMENDMENT PETITION I.A. NO. 43 OF 2015, DATED 31.12.2014.
- EXT.P7: COPY OF THE APPLICATION FOR GRANTING TIME TILL FILING REVISION DATED 17.01.2015.

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

P.BHAVADASAN, J.

O.P.(C) No.207 of 2015

Dated this the 23rd day of January, 2015

J U D G M E N T

The grievance of the petitioner is that he had moved three interlocutory applications in O.S.No. 1079/2009 pending before the II Additional Munsiff Court, Nayyattinkara. One of the I.A.s was for removing the case from the list and that was numbered as I.A.No.22/2015. Another petition was to advance the case and that was numbered as I.A.No. 23/2015 and the petitioner filed another I.A. to bring on record additional parties as he felt they are absolutely necessary parties for the disposal of the suit. It is also pointed out that there was an amendment sought for to the counter claim through I.A. No. 43/2015. The grievance of the petitioner is that without considering the merits of the petitions, all of them were dismissed by order dated 16.01.2015. Even though the petitioner sought for a breathing time for taking such steps as such are available to him against the order passed, no time was granted to him

and suit stands posted for trial to tomorrow. That brings the petitioner before this Court.

2. The main grievance of the petitioner is that he has not been furnished with the copy of the order which he intends to challenge before the higher forum. Before he gets an opportunity at least to challenge the order passed by the court below, it may not be appropriate to proceed on with the trial of the suit.

3. There seems to be some justification in the above grievance.

This petition is disposed of directing the court below to make available the copy of the order dismissing I.A.s mentioned above ie. Exts. P3, P4 and P5 as early as possible, at any rate, within a period of one week from today and in the meanwhile, the trial of the suit shall be kept in abeyance for a period of two weeks.

**P.BHAVADASAN
JUDGE**

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