

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

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

OP(C).No. 211 of 2015 (O)

AGAINST THE COMMON JUDGMENT IN OS NOS.131 AND 302 OF 2000 of MUNSIF COURT, VARKALA DATED 10-03-2003.

PETITIONER(S):

1. NASEELA, D/O RAFEKA BEEVI,
AGED 44 YEARS, VALYAVEEDU,
VETTOOR DESOM, VETTOOR VILLAGE.
2. NIZA, D/O RAFEKA BEEVI,
AGED 48 YEARS, VALYAVEEDU,
VETTOOR DESOM, VETTOOR VILLAGE.

BY ADV. SRI.P.SIVARAJ.

RESPONDENT(S):

1. GEETHAKUMARI, D/O SAVITHRY,
AGED 52 YEARS, HARISREE VAIDHYASLA MUKKU,
ASSRAMOM, KOLLAM EAST VILLAGE, KOLLAM.
2. SEEN, D/O RAFEKABEEVI, AGED 44 YEARS,
VALYAVEEDU, VETTOOR DESOM, VETTOOR VILLAGE.
3. TAHA, S/O ABDUL RASHEED OF -DO- -DO-
4. ABDUL SALAM, S/O ADBUL RASHEED, -DO- -DO-
5. RAFEKA BEEVI OF -DO- -DO-
6. AMINA UMMAL OF -DO- -DO-
7. SAINULLABDIN, S/O ABDUL RASHEED OF -DO-

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : TRUE COPY OF THE A.S NOS.11 OF 2015 PENDING BEFORE THE DISTRICT COURT, TRIVANDRUM.
- EXT.P1(a) : TRUE COPY OF THE A.S NO.12 OF 2015.
- EXT.P2 : TRUE COPY OF THE PETITION TO CONDONE THE DELAY IN FILING AS NO.11/2015.
- EXT.P2(a) : TRUE COPY of the PETITION TO CONDONE THE DELAY IN FILING A.S NO.12/2015.
- EXT.P3 : TRUE COPY OF STAY PETITION IN A.S NO.11/2015.
- EXT.P3(a) : TRUE COPY OF STAY PETITIN IN A.S NO.12/2005.
- EXT.P4 : TRUE COPY OF the COMMON JUDGMENT IN O.S NOS.131/2000 AND 302/2000 OF MUNSIFF COURT, VARKALA DATED 10-03-2003.
- EXT.P5 : TRUE COPY OF DECREE IN O.S NO.131/2000 OF THE MUNSIFF COURT, VARKALA.
- EXT.P5(a) : TRUE COPY OF DECREE IN O.S NO.302/2000 OF THE MUNSIFF COURT, VARKALA.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A TO JUDGE

amk

A.HARIPRASAD, J.

O.P (C) No.211 of 2015

Dated this the 23rd day of January, 2015.

J U D G M E N T

Heard the counsel. Petitioners are the appellants in A.S Nos.11 and 12 of 2015 on the file of the District Court, Thiruvananthapuram. They are the plaintiffs in O.S Nos.131/2000 on the file of the Munsiff's Court, Varkala and the defendants in O.S No.302/2000 of the same court. Learned trial judge by a common judgment (Ext.P4) dismissed the suit of the petitioners and decreed the suit against the petitioners. Aggrieved thereby the petitioners have preferred the above said appeals.

2. The prayer in the petition is to stay all further proceedings pursuant to Ext.P4 common judgment and Ext.P5 and P5(a) decrees passed by the Munsiff Court, Varkala. The suit filed by the petitioners is one for declaration of title and possession of the plaintiffs and also to set aside a document executed in favour of the first defendant and also for a

permanent prohibitory injunction. The suit against the petitioners is one for prohibitory injunction.

3. Learned counsel for the petitioners submitted that the appeals were filed with a delay of 4,271 days. Hence, the court below did not consider the stay petitions. Admittedly, notices have been issued in the delay condonation petitions. Grievance of the petitioners is that the respondents are taking hectic steps to alienate the property. Hence, they approached this Court for passing an order staying further proceedings pursuant to Ext.P4 common judgment.

4. After hearing the learned counsel for the petitioners, I am of the definite view that the lower appellate court is legally right in deferring the consideration of stay petitions as the appeals are highly belated. Court below has issued notices to the respondents in the matter. I am not impressed about the submissions of the petitioners that they are entitled to get an

order to maintain status quo as on today, since it has been clearly laid down by binding precedents that courts should not pass orders to maintain status quo without understanding as to what the status quo is. Therefore, the only possible way out for the petitioner is to approach the court below and request the court below to expedite the decision on the delay condonation petition. In the event of condoning the delay, the court below shall consider the stay petition on merit without delay within a period of two weeks. With these observations, the original petition is disposed of.

Sd/-
A.HARIPRASAD,
JUDGE.

///True copy///

P.A to Judge