

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

OP(C).No. 233 of 2015 (O)

**EA. 57/2014 IN EP. 14/2014 IN OS 288/1997 of MUNSIFF COURT,
SASTHAMCOTTA, KOLLAM**

ORIGINAL PETITIONERS/PETITIONER IN EA 57/2014:

1. **AJAYAKUMAR @ AJAYAN PILLAI, AGED 51 YEARS,
S/O. VASUDEVAN PILLAI, VIPANCHIKA
PULIYOORVANCHI KIZHAKKU MURI, THODIYOOR VILLAGE,
KARUNAGAPPALLY, KOLLAM.**
2. **JAYAKUMARI
W/O. AJAYAKUMAR @ AJAYAN PILLAI, VIPANCHIKA
PULIYOORVANCHI KIZHAKKU MURI, THODIYOOR VILLAGE,
KARUNAGAPPALLY, KOLLAM.**

BY ADV. DR.K.P.PRADEEP

RESPONDENTS/RESPONDENTS IN EA 57/14:

1. **RAMANI AMMA, AGED 57 YEARS,
D/O. SARAJINI AMMA, CHARUVILA PUTHEN VEEDU
ANAYADI MURI, SOORANADU NORTH VILLAGE,
KARUNAGAPPALLY, KOLLAM.**
2. **JAYASREE, D/O. RAMANI AMMA,
CHARUVILA PUTHEN VEEDU, ANAYADI MURI
SOORANADU NORTH VILLAGE, KARUNAGAPPALLY, KOLLAM.**
3. **RAVEENDRAN PILLAI
SANTHOSHBHAVANAM, ANAYADI MURI,
SOORANADU NORTH VILLAGE, KARUNAGAPPALLY, KOLLAM.**
4. **UNNIKRISHNA PILLAI
SREE NILAYAM VEEDU, ANAYADI MURI
SOORANADU NORTH VILLAGE, KARUNAGAPPALLY, KOLLAM.**
5. **SREEDEVI PILLAI
CHERIYELIL VEEDU, PULIYOORVANCHI KIZHAKKU MURI
THODIYOOR VILLAGE, KARUNAGAPPALLY, KOLLAM-691 004.**

6. VASUDEVAN PILLAI
CHERIYELIL VEEDU, PULIYOORVANCHI KIZHAKKU MURI,
THODIYOOR VILLAGE, KARUNAGAPPALLY, KOLLAM-691 004.
7. SASIDHARAN PILLAI
CHERIYELIL VEEDU, PULIYOORVANCHI KIZHAKKU MURI,
THODIYOOR VILLAGE, KARUNAGAPPALLY, KOLLAM-691 004.
8. LATHAMMA
CHOOOLUR VEEDU, KIDANGAYAM NADUVIL
SOORANADU SOUTH VILLAGE, KARUNAGAPALLY
KOLLAM-691 004.
9. SARALAMMA, ASWATHY,
KIDANGAYAM NADUVIL, SOORANADU SOUTH VILLAGE
KARUNAGAPPALLY, KOLLAM-691 004.
10. SHARNGADHARAN
DAMODHARA VILASAM, ANAYADI MURI
SOORANADU NORTH VILLAGE, KARUNAGAPPALLY
KOLLAM-691 004.
11. KOMALAVALLI KUNJAMMA, "REVATHY",
ANAYADI MURI, SOORANADU NORTH VILLAGE,
KARUNAGAPPALLY, KOLLAM-691 004.
12. RAJITHA, "REVATHY",
ANAYADI MURI, SOORANADU NORTH VILLAGE,
KARUNAGAPPALLY, KOLLAM-691 004.
13. SREENI
"REVATHY", ANAYADI MURI, SOORANADU NORTH VILLAGE,
KARUNAGAPPALLY, KOLLAM-691 004.
14. SWATHY, "REVATHY",
ANAYADI MURI, SOORANADU NORTH VILLAGE,
KARUNAGAPPALLY, KOLLAM-691 004.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 02-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITINER'S EXHIBITS :

- P1: COPY OF THE DEED NO. 1887/91 DT 27/8/1991 OF SRO, SOORANAD, KOLLAM.
- P2: COPY OF THE POSSESSION CERTIFICATE DT 16/1/2015 ISSUED BY THE VILLAGE OFFICER, SOORANAD NORTH, KOLLAM.
- P3: COPY OF THE LAND TAX RECEIPT NO. 1843632 DT 27/10/2014 ISSUED BY THE VILLAGE OFFICER, SOORANAD NORTH VILLAGE, KOLLAM.
- P4: COPY OF THE JUDGMENT DT 20/6/2006 IN OS NO. 288 OF 1997 OF THE MUNSIF COURT, SASTHAMCOTTA, KOLLAM.
- P5: COPY OF THE JUDGMENT DT 17/2/2011 IN AS NO. 6/2010 OF THE ADDITIONAL SUB JUDGE, KOLLAM.
- P6: COPY OF THE MEMORANDUM OF APPEAL DT 25/8/2006 FILED BEFORE THE DISTRICT COURT AT KOLLAM.
- P6(A): COPY OF THE IA NO. 2219/2014 IN AS NO. 6/2010 FILED BEFORE THE ADDITIONAL SUB COURT- II, KOLLAM
- P6(B): COPY OF THE IA NO. 2218/2014 IN AS NO. 6/2010 FILED BEFORE THE ADDITIONAL SUB COURT - II, KOLLAM.
- P7: COPY OF THE OS NO. 256/2014 FILED BEFORE THE MUNSIF COURT, SASTHAMCOTTA, KOLLAM.
- P7(A): COPY OF THE IA NO. 1397/2014 IN OS NO. 259/2014 FILED BEFORE THE MUNSIF COURT, SASTHAMCOTTA.
- P7(B): COPY OF THE OBJECTION DT 16/12/2014 IN I A NO. 1397/2014 IN OS NO. 259 OF 2014 FILED BEFORE THE MUNSIF'S COURT, SASTHAMCOTTA AT KOLLAM.
- P7(C): COPY OF THE ORDER DT 16/12/2014 IN IA NO. 1397/2014 IN OS NO. 259/2014 PASSED BY THE LEARNED MUNSIF, SASTHAMCOTTA, KOLLAM.
- P8: COPY OF THE EXECUTION PETITION IN EP 14 OF 2014 IN OS 288 OF 1997 FILED BEFORE THE MUNSIF COURT, SASTHAMCOTTA, KOLLAM
- P8(A): COPY OF THE CLAIM PETITION DT 7/11/2014 IN FA 59/2014 IN EP 14 OF 2014 IN OS 288 OF 1997 FILED BY THE PETITIONERS BEFORE THE MUNSIF COURT, SASTHAMCOTTA, KOLLAM.
- P8(B): COPY OF THE OBJECTION FILED BY THE 1ST AND 2ND RESPONDENTS HEREIN IN EA 59/2014 IN EP 14/2014 IN OS 288/1997 BEFORE THE MUNSIF COURT, SASTHAMCOTTA, KOLLAM.

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P9: COPY OF THE EA NO. 57 OF 2014 IN EP 14 OF 2014 IN OS NO. 288 OF 1997
FILED BY THE PETITIONERS FOR STAY BEFORE THE MUNSIFF COURT,
SASTHAMCOTTA, KOLLAM.

P9(A): COPY OF THE OBJECTION FILED BY THE 1ST AND 2ND RESPONDENTS
HEREIN IN EA NO. 57 OF 2014 IN EP 14 OF 2014 IN OS NO. 288 OF 1997
BEFORE THE MUNSIFF COURT, SASTHAMCOTTA, KOLLAM.

P10: COPY OF THE ORDER DT 6/1/2015 IN EA NO. 57 OF 2014 IN EP 14/2014 IN OS
NO. 288 OF 1997 OF THE MUNSIFF COURT, SASTHAMCOTTA, KOLLAM.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

P. BHAVADASAN, J.

O.P.(C). No. 233 of 2015

Dated this the 2nd day of March, 2015.

JUDGMENT

The limited prayer when the matter was heard today was that there may be a direction to dispose of Ext.P8(a) which is a claim petition said to have been filed by the petitioners and which is pending before the court below with regard to the delivery of the property.

2. The short claim put forward by the petitioners is that the property of which they were in possession was attempted to be delivered in pursuance of a decree in a suit for partition though the property of the plaintiffs is not covered by the decree. They therefore filed a claim petition. They also sought for stay of further proceedings in execution by filing Ext.P9 in which Ext.P10 order has been passed thereon.

3. The limited prayer is that since Ext.P8(a) is kept pending, it can be directed to be disposed of and till then E.P. may not be closed.

4. In the nature of the order that is proposed to be passed in this Original Petition, notice to the respondents is unnecessary.

5. Going by the averments in the petition, it is seen that a claim petition is pending with regard to the property involved in the partition suit. Whatever may be the nature of the claim, the court has to consider and dispose of the claim petition in accordance with law. That has not been done so far. The claim petition filed by the petitioners cannot be kept pending for ever.

This Original Petition is disposed of directing the court below to consider and dispose of Ext.P8(a) claim petition said to have been filed by the petitioners in accordance with law and after hearing all the interested parties as expeditiously as possible, at any rate, within a

period of three months from the date of receipt of a copy of this judgment. Till then execution proceedings shall not be closed.

sb.

P. BHAVADASAN,
JUDGE