

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

OP(C).No. 265 of 2015 (O)

OP(TR) NO. 286/2014 OF DISTRICT COURT, THALASSERY DATED 19-01-2015

PETITIONER/PETITIONER/PLAINTIFF :

SHAJI K.N.,
S/O.LATE V.NARAYANAN NAMBIAR,
AGED 40 YEARS, RESIDING AT SREE PADAM
KANNUR-1, AMSOM, KANNUR KARAR DESOM
P.O. THANA, KANNUR-12.

BY ADVS.SRI.P.U.SHAILAJAN
SRI.D.N. NISHANI

RESPONDENTS / RESPONDENTS / DEFENDANTS :

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1. SEENA K.N.,
D/O.LATE V. NARAYANAN NAMBIAR, AGED 38 YEARS
H.S.A., RAJAS HIGHER SECONDARY SCHOOL, CHIRAKKAL
RESIDING AT PODIKKUND, BEHIND SHAJI TIMBERS
PUZHATHY AMSOM DESOM, KANNUR-670004
 2. VANDANA K.N.,
D/O.LATE V. NARAYANAN NAMBIAR, AGED 30 YEARS
LPSA, RAJAS UP SCHOOL, CHIRAKKAL,
RESIDING AT NEAR BHUAVANESWARY TEMPLE
ELAYAVOOR AMSOM DESOM, PO. MUNDAYAD,
KANNUR-670 597

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 30-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

OP(C).No. 265 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT P1: TRUE COPY OF THE PLAINT IN OS.NO.699/2012 BEFORE THE SUB COURT, KANNUR.
- EXT P2: TRUE COPY OF THE PLAINT IN OS.NO.53/2013 BEFORE THE PRINCIPAL SUB COURT, THALASSERY.
- EXT P3: TRUE COPY OF THE OP.(TR)NO.286/2014 ON THE FILES OF THE DISTRICT COURT, THALASSERY.
- EXT P4: TRUE COPY OF THE COUNTER STATEMENT IN OP.(TR)NO.286/2014 ON THE FILE OF THE DISTRICT COURT, THALASSERY BY THE 1ST RESPONDENT.
- EXT P5: TRUE COPY OF THE COUNTER STATEMENT IN OP.(TR) NO.286/2014 ON THE FILE OF THE DISTRICT COURT, THALASSERY BY THE 2ND RESPONDENT.
- EXT P6: TRUE COPY OF THE ORDER DATED 19.01.2015 IN OP(TR) NO.286/2014 ON THE FILE OF THE DISTRICT COURT, THALASSERY.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P. BHAVADASAN, J.

O.P.(C) No. 265 of 2015

Dated this the 30th day of January, 2015.

JUDGMENT

Aggrieved by Ext.P6 order, the petitioner before the court below has come up with this Original Petition under Article 227 of the Constitution of India.

2. The petitioner is the first defendant in O.S. 53 of 2013 before the Principal Sub Court, Thalassery, which is a suit for partition in which the Will by one of the parents of the parties is involved. The petitioner in turn filed O.S. 699 of 2012 before Sub Court, Kannur for partition of the property on the basis of the Will of the father. In both the suits, written statements have been filed. Pointing out that common issues have been involved and the evidence to be adduced is of same nature, the petitioner moved for transfer of O.P. 53 of 2013 from Principal Sub Court, Thalassery to Sub Court, Kannur.

3. The court below, after adverting to the various aspects, declined to grant the relief. That brings the petitioner before this Court.

4. It is contended on behalf of the petitioner that it will be advantageous to all the parties to have both the suits tried by the same court and the court below ought to have allowed the petition. It is also pointed out that the parties are lawyers practicing in Kannur and Thalassery and that may cause embarrassment to the court.

5. The above contentions have no basis. O.S. 53 of 2013 is based on a Will of the mother whereas O.S. 699 of 2012 is based on the Will of the father. As rightly noticed by the court below, there are no common issues involved. Each Will will have to be proved independently. There is nothing to show that the respective courts cannot try the respective suits pending before them. The court below did not find any reason to transfer the case. This Court after

perusing the records, finds no reason to interfere with the order.

This Original Petition is without merits and it is accordingly dismissed.

sb.

P. BHAVADASAN,
JUDGE