

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

OP(C).No. 303 of 2015 (O)

**OS.NO. 651/2012 OF MUNSIFF COURT, CHAVAKKAD
CMA.NO. 52/2013 OF IV ADDITIONAL DISTRICT COURT, THRISSUR**

PETITIONER :

**K.P.BHASI, AGED 58 YEARS,
S/O.KODAIKATTIL PUTHENVEETIL DEVAKY AMMA,
THAIKAD VILLAGE DESOM, CHAVAKKAD TALUK.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

- 1. RAJALAKSHMI,
D/O.KODAIKATTIL PUTHENVEETIL DEVAKY AMMA,
W/O.KOONANGATTU SIVASANKARAN, THAIKAD VILLAGE DESOM,
CHAVAKKAD TALUK-680 001.**
- 2. MOHANBABU,
S/O.KODAIKATTIL PUTHENVEETIL DEVAKY AMMA,
POOKODE VILLAGE, THAMARAYOOR DESOM, CHAVAKKAD TALUK,
PIN-680 001.**

R1 BY ADV. SRI.RAJIT (CAVEATOR)

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-09-2015,ALONG WITH OP(C).NO.645 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

OP(C).No. 303 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE COPY OF THE PLAINT IN O.S.NO.651/2012 DATED 16.7.2012 ON THE FILE OF THE MUNSIFF COURT, CHAVAKKAD.

EXHIBIT-P2: A TRUE COPY OF THE ORDER PASSED IN I.A.NO.643 OF 2013 IN EXT P1 SUIT DATED 25.3.2013 ON THE FILE OF THE MUNSIFF COURT, CHAVAKKAD.

EXHIBIT-P3: A TRUE COPY OF THE FINAL JUDGMENT IN C.M.A.NO.52 OF 2013 DATED 31.1.2014 ON THE FILE OF THE 4TH ADDL.DISTRICT COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. ABRAHAM MATHEW, J.

O.P.(C)Nos.303 of 2015 & 645 of 2015

Dated this the 15th day of September, 2015

J U D G M E N T

Petitioner is the defendant in O.S.No.651 of 2012 filed by the respondents for partition of plaint scheduled properties. In the written statement the petitioner raised a contention that he has become exclusive owner of the properties under the will executed by the predecessor in interest. An application was filed for a temporary prohibitory injunction restraining the petitioner in these OPs from causing an obstruction to the respondent's enjoying the properties and committing waste. That was allowed. Subsequently the respondents/plaintiffs filed an application for police protection alleging that the petitioner did not allow the respondents/plaintiffs to enter the property. That was allowed. This is challenged in OP.No.645 of 2015 and in O.P.No.303 of 2015. The judgment in CMA, which confirms the order of injunction passed by the trial court also is challenged.

2. Heard both sides.
3. Though the petitioner relies on a will it has not

been produced in the case. So there is nothing to prove even prima facie the claim made by him. There cannot be any doubt that the learned Munsiff was fully justified in granting the injunction order. The petitioner is not supposed to violate the order of injunction. The respondents/plaintiffs should have filed an application for prosecution if the petitioner violated the order instead of filing the application for police protection. But I do not want to interfere with the order by which police protection was granted to the respondents/plaintiffs. The impugned orders are only to be confirmed. But the learned counsel Sri.G.Sreekumar submits that the respondents/plaintiffs shall not be allowed to commit waste in the property. His request is reasonable.

In the result, both OPs are disposed of confirming the impugned orders and directing the respondents/plaintiffs also from not committing waste in the property. The learned Munsiff shall try to dispose of the suit as early as possible provided the parties corporate.

**K. ABRAHAM MATHEW
JUDGE**

R.AV

//True Copy//

PA to Judge