

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

OP(C).No. 343 of 2015 (O)

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CMA 11/2014 OF SUB COURT, MUVATTUPUZHA  
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PETITIONERS/APPELLANTS/DEFENDANTS :

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1. JOSE, AGED 58,  
SON OF THOMAS, AYYANKOLIL HOUSE, ENNANALLOOR KARA  
ENNANALLOOR VILLAGE, MUVATTUPUZHA TALUK  
ERNAKULAM DISTRICT.
  2. PAUL, AGED 45,  
SON OF THOMAS, AYYANKOLIL HOIUSE, ENNANALLOOR KARA  
ENNANALLOOR VILLAGE, MUVATTUPUZHA TALUK  
ERNAKULAM DISTRICT.
  3. THOMAS, AGED 87,  
SON OF LATE JOSEPH, AYYANKOLIL HOUSE, ENNANALLOOR KARA  
ENNANALLOOR VILLAGE, MUVATTUPUZHA TALUK  
ERNAKULAM DISTRICT.

BY ADVS.SRI.C.P.SAJI  
SMT.P.DEEPA MOHAN

RESPONDENTS/RESPONDENTS/PLAINTIFFS :

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1. LILLYKUTTY, AGED 72 ,  
WIFE OF JOSEPH, VAMATTATHIL HOUSE,  
NELLIMATTAM KARA  
KUTTAMANGALAM VILLAGE  
NOW RESIDING AT VAMATTATHIL HOUSE, MANJALLOOR KARA  
MANJALLOOR VILLAGE, MUVATTUPUZHA TALUK, PIN-686670.
  2. BETTY, AGED 48,  
D/O.LATE JOSEPH, VAMATTATHIL HOUSE,  
NELLIMATTAM KARA, KUTTAMANGALAM VILLAGE  
NOW RESIDING AT VAMATTATHIL HOUSE, MANJALLOOR KARA  
MANJALLOOR VILLAGE, MUVATTUPUZHA TALUK, PIN-686670.
  3. BESSY, AGED 46,  
D/O.LATE JOSEPH, VAMATTATHIL HOUSE,  
NELLIMATTAM KARA, KUTTAMANGALAM VILLAGE  
NOW RESIDING AT VALIYAVEETIL HOUSE  
MANJALLOOR KARA, MANJALLOOR VILLAGE  
MUVATTUPUZHA TALUK, PIN-686670.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 TRUE COPY OF THE PLAINT DATED 21.11.2013 IN O.S.570/2013 FILED BY THE RESPONDENTS BEFORE THE MUNSIF'S COURT, MUVATTUPUZHA.
- EXT.P2 TRUE COPY OF THE WRITTEN STATEMENT DATED 25.04.2014 FILED BY THE PETITIONERS BEFORE THE MUNSIF'S COURT, MUVATTUPUZHA.
- EXT.P3 TRUE COPY OF THE EXPARTE COMMISSION REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER IN I.A.3085/2013 IN O.S.570/2013 BEFORE THE MUNSIF'S COURT, MUVATTUPUZHA.
- EXT.P4 TRUE COPY OF THE COMMON ORDER DATED 30.08.2014 IN I.A.NO.3084/2013 IN O.S.570/2013, I.A.329/2014 IN O.S.61/2014 & I.A.856/2014 IN O.S.185/2014 OF THE MUNSIF'S COURT, MUVATTUPUZHA.
- EXT.P5 TRUE COPY OF THE C.M.A.11/2014 DATED 17.09.2014 FILED BY THE PETITIONERS BEFORE THE SUB COURT, MUVATTUPUZHA.
- EXT.P6 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN I.A.888/2014 IN C.M.A.11/2014 DATED 17.09.2014.
- EXT.P7 TRUE COPY OF THE I.A.2978/2014 IN O.S.570/2013 FILED BY THE RESPONDENTS BEFORE THE MUNSIF'S COURT, MUVATTUPUZHJA DATED 17.09.2014.
- EXT.P8 TRUE COPY OF THE I.A.2979/2014 IN O.S.570/2013 FILED BY THE RESPONDENTS BEFORE THE MUNSIF'S COURT, MUVATTUPUZHA DATED 17.09.2014.
- EXT.P9 TRUE COPY OF THE ADVANCE PETITION DATED 28.01.2015 IN C.M.A.11/2014 FILED BY THE PETITIONERS BEFORE THE SUB COURT, MUVATTUPUZHA.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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**P. BHAVADASAN, J.**

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O.P.(C). No. 343 of 2015  
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Dated this the 9<sup>th</sup> day of February, 2015.

**JUDGMENT**

In this Original Petition under Article 227 of the Constitution of India, the limited prayer is for a direction to Sub Court, Muvattupuzha to take up C.M.A. 11 of 2014 and dispose of the same as expeditiously as possible or within a time limit fixed by this Court.

2. The petitioners before this Court, who are the defendants in a suit, suffered an order of injunction from the trial court. The matter related to the existence of a pathway running through the property of the defendants which the plaintiffs claimed was the only way to their property.

3. The contesting defendants had a case that it is not a way as alleged by the plaintiffs and it is only a passage through the rubber plantation of the defendants and the plaintiffs have no manner of right over the same to

use it as a pathway. It is also contended that they had other alternate means of accessibility to their property.

4. In the suit a commission was taken out and he had fled Ext. P3 report. Probably mainly based on Ext.P3 report, the trial court granted an injunction. That brought the defendants before the lower appellate court. Unfortunately for the petitioners, Sub Court, Muvattupuzha is now managed by Sub Judge, Perumbavoor.

5. The petitioners point out that there is considerable urgency in the matter since their right to the property is severely affected.

6. After having heard learned counsel for the petitioners on merits of the case, it is felt that there is some justification for seeking early disposal of the matter.

This Original Petition is disposed of directing the Sub Judge, Perumbavoor, who is in charge of Sub Court, Muvattupuzha, to take up C.M.A. 11 of 2014 at the earliest and dispose it of in accordance with law as expeditiously as

possible, at any rate, within a period of four months from the date of receipt of a copy of this judgment. The court may also consider Ext.P6 application filed by the petitioner.

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P. BHAVADASAN,  
JUDGE