

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

OP(C).No. 426 of 2015 (O)

(O.S.321/2007 AND O.S.359/2007 OF MUNSIFF COURT, PERUMBAVOOR)

PETITIONERS:

1. AJI
S/O. MATHAI, NADAKKAL HOUSE, KURUPPAMPADY P.O.
VENGOOR WEST VILLAGE, PERUMBAVOOR.
2. KOCHUMON ALIAS SANTHOSH
S/O. YACCOB, NADAKKAL HOUSE, KURUPPAMPADY P.O.
VENGOOR WEST VILLAGE.

BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL

RESPONDENTS:

1. JOSE
S/O. KURIAKOSE, KILIYAYAM HOUSE, KURUPPAMPADY P.O.
VENGOOR WEST VILLAGE - 683 545.
2. MATHUKUNJU
S/O. KURIAKOSE, KILIYAYAM HOUSE, KURUPPAMPADY P.O.
VENGOOR WEST VILLAGE - 683 545.
3. KURIAKOSE
S/O. MATHULLA, KILIYAYAM HOUSE, KURUPPAMPADY P.O.
VENGOOR WEST VILLAGE- 683 545.

R1-R2 BY ADV. SRI.N.SUKUMARAN (SR.)
R1-R2 BY ADV. SRI.N.K.KARNIS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 27-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 426 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

- P1 - COPY OF THE PLAINT OS 321/2007 ON THE FILE OF MUNSIFF'S COURT, PERUMBAVOOR.
- P2 - COPY OF THE PLAINT OS 359/2007 ON THE FILE OF MUNSIFF'S COURT, PERUMBAVOOR.
- P3 - COPY OF THE PROCEEDINGS DT. 10.2.15 IN OS 321/2007 ON THE FILE OF MUNSIFF'S COURT, PERUMBAVOOR (DOWNLOADED FROM THE WEBSITE)
- P4 - COPY OF THE ORDER DT. 15.2.14 IN OS 321/2007 ON THE FILE OF MUNSIFF'S COURT, PERUMBAVOOR.
- P5 - COPY OF THE AFFIDAVIT FILED BY THE 1ST PETITIONER IN OS 321/2007 OF MUNSIFF'S COURT, PERUMBAVOOR.
- P6 - COPY OF THE AFFIDAVIT FILED BY THE 2ND PETITIONER IN OS 321/2007 OF MUNSIFF'S COURT, PERUMBAVOOR.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A. to Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.426 OF 2015

Dated this the 27th day of February, 2015.

J U D G M E N T

This original petition under Article 227 of the Constitution of India is filed by the petitioners seeking the following reliefs:

- i. To set aside the direction dated 10.02.2015 passed by the learned Munsiff directing plaintiff in O.S.321/2007 (respondent No.1 herein) of Munsiff's Court, Perumbavoor to produce the old survey plan;
- ii. To transfer the two suits-O.S.321/2007 and O.S.359/2007 now pending before Munsiff's Court, Perumbavoor to any other court for further trial.

2. Learned Senior Counsel appearing for the respondents opposed the petition only on the ground that this is nothing but a tactic adopted to delay the disposal of the suit.

3. This Court had called for a report from the officer concerned regarding the allegations made in Ext.P5 produced in the petition. True, officer denies all the allegations. However, it

needs to be noticed that the party concerned has filed an affidavit and raised some apprehension about the method in which the matter has been proceeded with by the learned presiding officer. It is well settled that justice should not only be done but also appear to have been done.

4. In the light of the above fact, in order to safeguard the interest of the party concerned, it is only proper that the matter be tried by some other court.

For the above reasons, this original petition is allowed and O.S.Nos.321 and 359 of 2007 pending before Munsiff Court, Perumbavoor shall stand transferred to Munsiff Court, Muvattupuzha. Parties shall appear before the Munsiff Court, Muvattupuzha on 25.03.2015. Munsiff Court, Muvattupuzha shall proceed from where Munsiff Court, Perumbavoor has left the case and also make every effort to dispose of the matter as expeditiously as possible, at any rate, within a period of six months from the date of appearance of the parties. Munsiff

Court, Perumbavoor will forward the records to Munsiff Court, Muvattupuzha forthwith.

Sd/-

**P.BHAVADASAN
JUDGE**

smp