

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

OP(C).No. 504 of 2015 (O)

CMA 6/2015 OF SUB COURT, IRINJALAKUDA

PETITIONER(S):

1. **ABDUL BASHEER, AGED 68 YEARS,
S/O.ABDUL RAZAQ, KALLUPARAMBIL, KATTUNGACHIRA DESOM,
IRINGALAKKUDA VILLAGE, MUKUNDAPURAM TALUK.**
2. **THAYEEB ALI, AGED 60 YEARS,
S/O.UMMER, VALIYANGADIPPARAMBIL, IRINGALAKKUDA VILLAGE,
MUKUNDAPURAM TALUK.**

BY ADV. SRI.ZAKEER HUSSAIN

RESPONDENT(S):

1. **JOY, AGED 53 YEARS,
S/O.THOMAN, KOONANMAVU HOUSE, KORUMBUSSERY DESOM,
MANAVALASSERY VILLAGE, MUKUNDAPURAM TALUK-680 121.**
2. **JOHNY, AGED 55 YEARS,
S/O.LUIZ, ALAPPADAN HOUSE, PORATHISSERY VILLAGE,
MUKUNDAPURAM TALUK-680 121.**
3. **THOMASLY, AGED 54 YEARS,
S/O.VARGHESE, EDAPPULLY HOUSE, IRINGALAKKUDA DESOM,
MANAVASSERY VILLAGE, MUKUNDAPURAM TALUK-680 121.**
4. **JESSY THOMASLY, AGED 50 YEARS,
W/O.THOMASLY, EDAPPULLY HOUSE, IRINGALAKKUDA VILLAGE,
MUKUNDAPURAM TALUK-680 121.**
5. **VARGHESE THOMASLY, AGED 24 YEARS,
S/O.THOMSLY, EDAPPULLY HOUSE, IRINGALAKKUDA DESOM,
MANAVASSERY VILLAGE, MUKUNDAPURAM TALUK-680 121.**
6. **SREEDEVI SASIDHARAN, AGED 48 YEARS,
W/O.SASIDHARAN, POYYARA HOUSE, IRINGALAKKUDA VILLAGE,
MUKUNDAPURAM TALUK-680 121.**

R3 BY ADV. SRI.G.SREEKUMAR (CHELUR)

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 16-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 504 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:-TRUE COPY OF THE PARTITION DEED NO 1133 OF 1960.

P2:-TRUE COPY OF THE TAX RECEIPT.

P3:-TRUE COPY OF THE PLAINT IN OS NO 3826 OF 2013.

P4:-TRUE COPY OF THE ORDER OF INJUNCTION IN IA NO 4270 OF 2013.

P5:-TRUE COPY OF THE COMMISSION REPORT.

P6:-TRUE COPY OF THE IA NO 4547 OF 2013.

P7:-TRUE COPY OF THE COUNTER AFFIDAVIT FILED IN IA NO 4547 OF 2013.

P8:-TRUE COPY OF THE ORDER DTD 10/12/2014.

P9:-TRUE COPY OF THE CMA NO 6 OF 2015.

P10:-TRUE COPY OF THE IA NO 543 OF 2015.

P11:-TRUE COPY OF THE COUNTER IN IA NO 543 OF 2015.

P12:-TRUE COPY OF THE IA NO 1046 OF 2015.

P13:-TRUE COPY OF THE IA NO 594 OF 2015 AND IA.NO.543/2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
O.P.(C) No. 504 of 2015
.....

Dated this the 16th day of July, 2015

J U D G M E N T

The court below has passed an interim order of mandatory injunction through Ext.P8 thereby directing the petitioners herein to remove the concrete posts installed in northern courtyard of the petition schedule property within one month of that order. Ext.P8 order was passed on 10.12.2014. Aggrieved by the said order, the petitioners have preferred CMA 6/2015 before the Subordinate Judge's Court, Irinjalakuda, where it is still pending. Even though the petitioners have filed IA for getting Ext.P8 order stayed in the CMA, the same could not be entertained as there was a caveat filed by the respondents herein. Still the IA filed in the CMA has not been disposed of. In the mean time, the respondents herein has filed Ext.P12 IA in the suit before

the Munisff's Court, Irinjalakuda for the execution of Ext.P8 order.

2. Heard the learned counsel for the petitioners and the learned counsel for the 3rd respondent. There is no representation for the other respondents.

3. This Original Petition is disposed of on the following lines:

The Subordinate Judge's Court Irinjalakuda is directed to dispose of Ext.P10 petition filed in CMA 6/15, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. If the learned Subordinate Judge feels that the CMA itself can be disposed of along with IA, the same can also be done by the learned Subordinate Judge. Till then, the execution of Ext.P8 order shall stand stayed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge