

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. 533 of 2015 (O)

(Against the order in I.A.43/15 and I.A.57/15 in O.S.52/13 dtd. 14.1.15 of
Sub Court, Pala)

PETITIONER/DEFENDANT:

MUHAMMED ASHRAF, AGED 62 YEARS
S/O.HAJI V.M.A.KAREEM, FATHIMA MANZIL HOUSE,
NADAKKAL P.O., ERATTUPETTA VILLAGE,
MEENACHIL TALUK.

BY ADVS.SRI.ESM.KABEER
SRI.M.S.JAYAKRISHNAN

RESPONDENTS:

1. K.M.ARIF,
S/O.MEERANNAN, ARIF NIVAS, NADAKKAL
ERATTUPETTA, KOTTAYAM-686121.
2. C.S.MEERANNAN
ARIF NIVAS, NADAKKAL, ERATTUPETTA
KOTTAYAM-686121.
3. A.M.RAFEEK
S/O.MEERANNAN, ARIF NIVAS, NADAKKAL
ERATTUPETTA, KOTTAYAM-686121.
4. A.M.JALEENA
D/O.MEERANNAN, ARIF NIVAS, NADAKKAL
ERATTUPETTA, KOTTAYAM-686121.
5. A.M.NAJI
FLAT NO.W-142, FEDERAL PARK, VENNALA
ERNAKULAM DISTRICT - 682028.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 533 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE APPLICATION FOR IMPEADING SUBMITTED
BY THE RESPONDENTS 1 AND 2 (I.A.NO.43/2015) BEFORE THE
HON'BLE SUB COURT, PALA DTD. 8.1.15.

EXHIBIT-P2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN
I.A.43/2015 BEFORE THE HON'BLE SUB COURT, PALA
DTD. 12.1.15.

EXHIBIT-P3: TRUE COPY OF THE ORDER IN I.A.NO.43/15 IN O.S.52/13
DATED 14.1.2015 OF THE HON'BLE SUB COURT, PALA.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.533 OF 2015

Dated this the 27th day of February, 2015.

J U D G M E N T

The 2nd plaintiff in the suit died on 01.03.2014 and the petition to implead her legal heirs was filed only on 08.01.2015 long after the death of the person concerned. The court below thought it fit to condone the delay and allowed the impleading petition as per Ext.P3. It is the said order that is challenged in this original petition.

2. The suit is one for damages and for recovery of possession and also for consequential injunction. It is true that there is delay in filing the application for impleading the legal heirs of the 2nd plaintiff. But it is to be noticed that one of the legal heirs was on the party array. That means there is no abatement. Under such circumstances, court below thought that the delay can be condoned and legal heirs can be brought on the party array. It could not be said that the court below had erred in any manner.

This original petition is without merits and it is accordingly dismissed.

Sd/-

P.BHAVADASAN
JUDGE

smp