

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

OP(C).No. 565 of 2015 (O)

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E.A. NO.276/2014 IN E.P. NO.112/2013 IN O.S. NO.706/1994 OF MUNSIF COURT,
ALAPPUZHA.**

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PETITIONER(S):

**KUSUMAVALLY, AGED 43 YEARS,
D/O. LATE RAJAPPAN, THATTASSERIL HOUSE,
ASRAMAM WARD, THEKKAN ARYAD MURI,
ARYAD SOUTH VILLAGE, AMBALAPPUZHA TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.VARGHESE C.KURIAKOSE.

RESPONDENT(S):

- 1. LILLYKUTTY, AGED 75 YEARS,
W/O.LATE JOSEPH, PUNNKKAL HOUSE,
KANJIRAMCHIRA, ALAPPUZHA DISTRICT-699 541.**
- 2. ANNAMMA @ VALSAMMA,
THATTASSERI PURAYIDATHIL, ASRAMAM WARD,
THEKKEN ARYADU MURI, ARYAD THEKKU VILLAGE,
ALAPPUZHA DISTRICT-699 308.**
- 3. GEORGE VARGHESE,
THATTASSERI PURAYIDATHIL, ASRAMAM WARD,
THEKKEN ARYADU MURI, ARYAD THEKKU VILLAGE,
ALAPPUZHA DISTRICT-699 308.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 03-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 565 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE EXECUTION PETITION E.P 112/2013 ON THE FILES OF THE MUNSIFF COURT, ALAPPUZHA.

EXHIBIT-P2- TRUE COPY OF THE JUDGMENT IN S.A. 972/2001 ON THE FILES OF THIS HON'BLE COURT.

EXHIBIT-P3- TRUE COPY OF THE E.A. 276/2014 ON THE FILES OF THE MUNSIFF COURT, ALAPPUZHA.

EXHIBIT-P4- TRUE COPY OF THE OBJECTION TO E.A. 276/2014 FILED BY THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.BHAVADASAN, J.

O.P.(C) No. 565 of 2015

Dated this the 03rd day of March, 2015

J U D G M E N T

The limited prayer in this original petition under Article 227 of the Constitution of India is for a direction to the Munsiff Court, Alappuzha to take up E.A.No. 276/2014 in E.P.No. 112/2013 in O.S.No.706/1994 and dispose of the same on merits in accordance with law after hearing both the parties.

2. The suit is one for redemption of mortgage which was dismissed by the Munsiff Court. The matter was carried in appeal as A.S.No. 95/1998 and the appellate court decreed the suit. Thereafter the matter was carried in second appeal before this Court as S.A.No.972/2001 which was disposed of by judgment dated 01.02.2013. The decree holder resorted to execution proceedings. The petitioner herein, who is the sister of the judgment debtors filed Ext.P3 claim petition.

3. The learned counsel appearing for the petitioner draws attention of this Court to the objection filed by the first respondent herein and pointed out that the very same contention has been considered in the second appeal by this Court. In fact, nothing survives for consideration as far as that contention is concerned. However, the petitioner has filed a detailed objection as per Ext.P4. The contention of the petitioner is that even after lapse of several months, the matter is still pending and no finality is being reached and the petitioner is put to considerable loss and injury.

4. In the nature of order that is proposed to be passed, it is felt that notice to the respondent is unnecessary.

This petition is disposed of directing the court below to take up E.A.No. 276/2014 in E.P.No. 112/2013 in O.S.No.706/1994 and dispose of the same as expeditiously as possible, at any rate, before the summer vacation.

Sd/-
P.BHAVADASAN
JUDGE