

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

OP(C).No. 633 of 2015 (O)

A.S.NO. 25/2014 OF SUB COURT, KANNUR

PETITIONER(S)/RESPONDENT/PLAINTIFF :

**K.P.SHADULI, AGED 50 YEARS,
S/O.MUHAMMED, RESIDING AT RAHMANIYA COMPOUND,
P.O.KOLACHERY, KANNUR DISTRICT.**

BY ADV. SRI.A.C.VENUGOPAL

RESPONDENT(S)/APPELLANTS/CLAIM PETITIONERS :

- 1. PALLANTAVIDE UMMER, AGED 45 YEARS,
S/O.ALEEMA, TEACHER RESIDING AT PONKUTHITHATTU,
NANIYOOR, LAKSHAM VEEDU, P.O.KOLACHERY,
KANNUR DISTRICT- 670 025.**
- 2. KUZHICAL PUTHIYA PURAYIL ABOOBACKER, AGED 45 YEARS,
S/O.ABDULLA, BUSINESS, KOLACHERY AMSOM AND DESOM,
P.O.KOLACHERY, KANNUR DISTRICT.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF DECREE IN O.S.NO. 335 OF 1995 OF MUNSIFF COURT, KANNUR.
- P2: TRUE COPY OF THE E.P.NO.341/2010 IN O.S.NO.335/1995 BEFORE THE MUNSIFF COURT, KANNUR.
- P3: TRUE COPY OF E.A NO.131/2011 IN E.P.NO.341/2010 IN O.S.NO.335/1995 BEFORE THE MUNSIFF COURT, KANNUR.
- P4: TRUE COPY OF THE JUDGEMENT DATED 16/01/2013 IN O.P.(C) NO.211/2013.
- P5: TRUE COPY OF AFFIDAVIT ALONG WITH I.A. E.A NO.58/2013 IN E.A. 131/2011 IN E.P. 341/2010 BEFORE THE MUNSIFF COURT, KANNUR.
- P6: TRUE COPY OF THE JUDGEMENT DATED 13/03/2013 IN O.P.(C) NO.1012/2013.
- P7: TRUE COPY OF THE JUDGEMENT DATED 03/06/2013 IN O.P.(C) NO.2266/2013.
- P8: TRUE COPY OF THE JUDGEMENT DATED 29/07/2013 IN E.A 58/2013 IN E.A NO.131/2011 IN E.P NO.341/2010 OF THE MUNSIFF COURT KANNUR.
- P9: TRUE COPY OF THE JUDGMENT DATED 04/03/2014 IN C.R.P NO.455/2013.
- P10: TRUE COPY OF THE MEMORANDUM OF APPEAL IN A.S.NO.25/2014 ALONG WITH AFFIDAVIT I.A 75/2014 BEFORE THE SUBORDINATE JUDGE, KANNUR.
- P11: TRUE COPY OF THE COUNTER FILED IN I.A 75/2014 BEFORE THE SUBORDINATE JUDGE, KANNUR.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P. BHAVADASAN, J.

O.P.(C). No. 633 of 2015

Dated this the 9th day of March, 2015.

JUDGMENT

The petitioner is the plaintiff in O.S. No. 335 of 1995, a suit for fixation of boundary. He succeeded. An appeal preferred was dismissed. He took out execution. In the execution a Commissioner was appointed. Then the respondents herein, who are third parties, claimed right over the property and filed E.A. 131 of 2011. That was kept pending for a long time though the petitioner moved the court below for an early disposal of the case. Thereafter, the petitioner filed E.A. 58 of 2013 challenging the maintainability of E.A. 131 of 2011. That too was kept pending forcing the petitioner to approach this Court for a direction for speedy disposal.

2. In pursuance to the order of this Court, the court below took E.A. 58 of 2013 and after hearing both

sides held that E.A. 131 of 2011 is not maintainable. That made the claimants in E.A. 131 of 2011 to approach this Court by way of C.R.P. 455 of 2013. In that C.R.P. this Court observed that the impugned order is an appealable order. Thus the claimants filed A.S. 25 of 2014 before Sub Court, Kannur.

3. Petitioner says that he has been waiting for a long time to enjoy the fruits of the decree and it is kept pending under one pretext or another. The only issue now is that an appeal is pending before Sub Court, Kannur with regard to the maintainability of E.A. 131 of 2011 and that may not consume much time.

4. After having heard learned counsel for the petitioner and considering the plight of the petitioner, it is felt that there is merit in the contentions of the petitioner.

5. In the nature of the order that is proposed to be passed in this Original Petition, notice to the respondents

appears to be unnecessary.

This Original Petition is disposed of directing Sub Court, Kannur to take up A.S. 25 of 2014 at the earliest and dispose of the same within three months from the date of receipt of a copy of this judgment. This judgment will not stand in the way of the court below considering and disposing of the petitions, if any, filed by the parties.

sb.

P. BHAVADASAN,
JUDGE