

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

OP(C).No. 640 of 2015 (O)

(CMA 23/2015 of FIRST ADDL.DISTRICT COURT, THRISSUR)

PETITIONER/APPELLANT:

SHEEBA, W/O. LARNISA, MURINGATHERY HOUSE,
KARSHAKA NAGAR
AYYATNHOLE, THRISSUR.

BY ADVS.SRI.K.D.SREEVISAKH
SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA

RESPONDENT/RESPONDENT:

ITTYANAM
D/O. NAYANGARA CHANDY OUSEPH, KARSHAKA NAGAR,
AYYANTHOLE, THRISSUR - 680 001.

BY ADV. SRI.DILIP J. AKKARA

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 30-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 640 of 2015 (O)

APPENDIX

PETITIONER'S' EXHIBITS :

EXHIBIT-P1-TRUE COPY OF THE SALE DEED REGISTERED AS 1973/71 OF
AYYANTHOLE SRO.

EXHIBIT-P2-TRUE COPY OF THE DOCUMENT NO. 3154/2006 OF AYYANTHOLE
SRO.

EXHIBIT-P3-TRUE COPY OF THE JUDGMENT IN O.S 506/2007 OF MUNSIF
COURT, THRISSUR.

EXHIBIT-P4-TRUE COPY OF THE DECREE IN O.S 506/2007 OF MUNSIF
COURT, THRISSUR.

EXHIBIT-P5-TRUE COPY OF THE ORDER DATED 16/02/2015 IN
I.A 22667/2014 IN O.S 7332/2014 OF 3RD ADDL. MUNSIF
COURT, THRISSUR.

EXHIBIT-P6-TRUE COPY OF THE MEMORANDUM OF APPEAL IN
C.M.A 23/2015.

EXHIBIT-P7-TRUE COPY OF I.A 647/2015 IN C.M.A 23/2015.

RESPONDENT'S EXHIBITS:

EXT.R1(a) COPY OF JUDGMENT DTD.29.5.13 IN RSA 534/13.

EXT.R1(b) COPY OF JUDGMENT DTD. 5.11.13 IN O.P.(C) 3170/13.

EXT. R1(c) COPY OF COUNTER DTD.3.3.15 IN I.A.647/15.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.640 OF 2015

Dated this the 30^h day of March, 2015.

J U D G M E N T

The limited prayer in this original petition is for a direction to the 1st Additional District Court, Thrissur to dispose of I.A.No.647/2015 in C.M.A.No.23/2015 within a time limit to be fixed by this Court.

2. The petitioner filed O.S.No.7332/2014 before the Munsiff Court, Thrissur for declaring a partition deed said to have been executed between the petitioner's mother and the respondent as null and void and also to declare the decree in O.S.No.506/2007 of Munsiff Court, Thrissur as nullity. The extent of property involved in the two suits is only 5 cents inclusive of a house situated therein. The other details which are relevant in the case are narrated in the body of the original petition and it is not necessary to reiterate the same in this order. Suffice to say that, in the suit filed by the petitioner, petitioner filed I.A.No.22667/2014 for interim injunction restraining the

execution proceedings being carried on on the basis of the decree in O.S.No.506/2007. That application was dismissed by order dated 16.02.2015. The petitioner challenged the said order in C.M.A.No.23/2015 now pending before 1st Additional District Court, Thrissur. In the C.M.A, petitioner has filed I.A.No.647/2015 for staying the execution proceedings in O.S.No.506/2007.

3. The complaint is that I.A.No.647/2015 is not being considered and that causes considerable loss and injury to the petitioner. It is pointed out that the matter is posted for delivery and unless there is urgent orders passed in the I.A, petitioner may be put to hardship.

4. Whether the suit itself is maintainable etc. are matters to be decided at the time of final hearing of the suit. At any rate, the lower appellate court is bound to consider the application filed before it for interim relief which, according to the petitioner, if not granted, may have far reaching consequence.

This original petition is disposed of directing the court below i.e. 1st Additional District Court, Thrissur to take up

I.A.No.647/2015 in C.M.A.No.23/2015 and dispose it of as expeditiously as possible, at any rate, before summer vacation begins.

Sd/-

P.BHAVADASAN
JUDGE

smp