

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

OP(C).No. 642 of 2015 (O)

(OS 27/2014 of SUB COURT, PATHANAMTHITTA)

PETITIONER:

P.V.JOSEPH, AGED 49 YEARS
S/O.P.VARGHESE, PUTHENPURACKAL HOUSE
KOCHUKOICKAL P.O., SEETHATHODE VILLAGE, RANNI TALUK
PATHANAMTHITTA DISTRICT

REPRESENTED BY POWER OF ATTORNEY HOLDER N.SREEKUMAR
S/O.NARAYANA PILLAI, THAYIL HOUSE, ULLAYAM MURI,
VELLAVOOR VILLAGE, KADAYANIKKADU P.O.
CHANGANASSERRI TALUK, KOTTAYAM DISTRICT.

BY ADVS.SRI.P.SUJITH KUMAR
SRI.N.KRISHNA PRASAD

RESPONDENT:

P.V.ABRAHAM, AGED 63 YEARS
S/O.VARGHESE, PULLAMPALLIL HOUSE, ANAPPARA
PATHANAMTHITTA VILLAGE AND POST, KOZEHNCHERRY TALUK
PATHANAMTHITTA DISTRICT.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 642 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1.TRUE COPY OF THE POWER OF ATTORNEY DATED 11/4/2014 IN
FAVOUR OF N.SREEKUMAR.

EXT.P2.TRUE COPY OF THE OS NO.27/2014 FILED ON 9/4/2014.

EXT.P3.TRUE COPY OF THE IA NO.514/2014 FILED BY THE PETITIONER
DATED 9/4/2014.

EXT.P4.TRUE COPY OF THE 'A' DIARY PROCEEDINGS DATED 11/4/2014.

EXT.P5.TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE
RESPONDENT DATED 10/11/2014.

EXT.P6.TRUE COPY OF THE ORDER OF INJUNCTION DATED 16/4/2014.

EXT.P7.TRUE COPY OF THE FRESH INJUNCTION APPLICATION DATED
12/11/2014.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.642 OF 2015

Dated this the 10th day of March, 2015.

J U D G M E N T

The petitioner who is the plaintiff in O.S.No.27/2014, which is a suit for specific performance, has filed I.A.No.514/2014 along with the suit for interim relief. Interim relief was granted to him.

2. The petitioner pointed out that going by the entry in the 'A' diary, he was under the impression that the order issued is an absolute order. However, when the order was received, it was noticed that interim order granted initially was limited till 21.05.2014. This was discovered long afterwards. Therefore, Ext.P7 application was filed for interim injunction. That petition is kept pending and it is contended that threat from the defendant looms large and unless an interim order is granted, it may prejudicially affect the rights of the petitioner.

3. One aspect is very clear from the petition that I.A.No.514/2014 filed by the petitioner has not been heard on merits and final order has not been passed.

4. In the facts and circumstances pointed out by the petitioner, the only direction that needs to be given is to direct the court below to take up I.A.No.514/2014 and dispose it of on merits after hearing both sides.

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

This original petition is disposed of directing the court below to take up I.A.No.514/2014 and dispose it of on merits, after hearing both sides, as expeditiously as possible, at any rate, within a period of three weeks from the date of receipt of a copy of this judgment.

**P.BHAVADASAN
JUDGE**

smp