

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

OP(C).No. 753 of 2015 (O)

IA NOS.4236/2014 AND 158/2015 IN OS NO.1458 OF 2014 OF MUNSIFF COURT,
WADAKKANCHERY

PETITIONER(S):

MOHAMAD ALI , S/O.MOHAMMAD KUTTY,PULIKKAL VEETIL HOUSE,
MANKARA, ENKAKAD POST, THRISSUR DISTRICT, PIN -680 589.

BY ADV. SRI.P.BHASKARAN

RESPONDENT(S):

ABID, SON OF CHEMBATHETHIL SULAIMAN, MANKARA, ENKAKAD POST,
THRISSUR DISTRICT, PIN 680 589.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 19-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) NO.753/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PLAINT IN OS NO.1458/2014

EXT.P2 TRUE COPY OF THE IA NO.4236/2014 IN OS NO.1458/2014

EXT.P3 TRUE COPY OF THE ORDER IN IA NO.4236/2014 IN OS NO.1458/2014

EXT.P4 TRUE COPY OF OBJECTION IN IA NO.4236/2014 IN OS NO.1458/2014

EXT.P5 TRUE COPY OF THE IA NO.158/2015 IN OS NO.1458/2014

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

A.HARIPRASAD, J.

O.P.(C) No.753 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

Petition under Article 227 of the Constitution of India.

2. Heard the learned counsel or the petitioner.
3. The prayers in the petition reads as follows:

“(a) appropriate orders or directions to the Munsiff Wadakkanchery to hear and pass final orders on O.S.1458/2014 and I.A.158/2015 (Exhibits P2 and P5) O.S.1458 of 2014 on the file of that court on a time bound basis.

(b) granting such other relief or reliefs as are prayed for by the petitioner during the pendency of this writ petition or which are deemed by this Honourable High Court.”

4. Petitioner is the defendant in O.S.No.1458 of 2015 pending before the Munsiff's Court, Wadakkanchery. The suit is one for injunction. Petitioner would contend that the plaintiff has no cause of action against the defendant/petitioner and he is incompetent to file a suit on behalf of his father. On the basis of this submission, it is contended by the learned counsel for the petitioner that the suit is not legally maintainable. That apart, the injunction petition pending before the court as I.A.No.4236 of

2015 has to be disposed of on an early date. Considering the nature of the contentions raised by the petitioner, I am of the view that no notice is required in this case to the respondent and the petition can be disposed of with the following directions.

The court below is directed to consider the maintainability of the suit as a preliminary point and also to dispose of the injunction application within one month from the date of re-opening the courts after summer vacation.

A. HARIPRASAD, JUDGE.

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