

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

OP(C).No. 780 of 2015 (O)

E.A. NO. 135/2015 IN E.P. 10/2006 IN O.S. NO. 459/2000 OF
PRINCIPAL MUNSIF COURT, KASARAGOD.

PETITIONER(S):

M. MADHUSOODHANA KEDILAYA, AGED 78 YEARS,
S/O.KRISHNA KEDILAYA, RESIDING AT MITHOOR HOUSE,
PO. KUNTAR, ADHUR VILLAGE,
KASARAGOD TALUK AND DISTRICT 671543.

BY ADVS.SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
SRI.A.S.SREEKANTH

RESPONDENT(S):

BALAKRISHNA KEDILAYA, AGED 66 YEARS,
S/O.KRISHNA KEDILAYA, RESIDING AT MITHOOR,
POST KUNTAR, ADHUR VILLAGE,
KASARAGOD TALUK AND DISTRICT 671543.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
BY ADV. SRI.P.RAHUL

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP(C).No. 780 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: COPY OF THE PLAINT IN OS.NO.14/2015 ON THE FILE OF THE ADDITIONAL MUNSIFF COURT, KASARAGOD

P1(A): COPY OF THE SALE DEED NO.2966/99 DATED 07.09.1999 OS SRO ,BADIADKA

P1(B): COPY OF THE ENGLISH TRNASLATION OF EXHIBIT P1(A)

P1(C): COPY OF THE BASI TAX RECEIPT DATED 24.06.2014 ISSUED BY THE VILLAGE OFFICER, ADHUR

P2: COPY OF THE IA.NO.72/2015 IN OS.NO.14/2015 ON THE FILE OF THE ADDITIONAL MUNSIFF COURT, KASARAGOD

P3: COPY OF THE EA.NO.135/2015 IN EP.NO.10/2006 IN OS.NO.459/2000 WITH AFFIDAVIT IN SUPOORT OF EA ON THE FILE OF THE PRINCIPAL MUNSIFF COURT, KASARAGOD

P4: COPY OF THE OBJECTION FILED BY THE RESPONDENT TO EXHIBIT P3

P5: COPY OF THE ORDER DATED 50.03.2015 IN EA.NO.135/2015 IN EP.NO.10/2006 IN OS.NO.459/2000 ON THE FILE OF PRINCIPAL MUNSIFF COURT, KASARAGOD

RESPONDENT(S)' EXHIBITS

P. BHAVADASAN, J.

O.P.(C). No. 780 of 2015

Dated this the 8th day of April, 2015.

JUDGMENT

Under challenge is Ext.P5 order whereby the court below refused to stay the execution of the decree in O.S. 459 of 2000. The claim of the petitioner before the court below was that he has filed O.S. 14 of 2015 to fix the boundary between the property of the petitioner and the respondent and till that is decided, it may not be proper to proceed with the execution of the decree earlier obtained by the respondent. It is pointed out that the property in respect of which the decree has been granted in favour of the respondent actually belongs to the petitioner and in case O.S. 14 of 2015 goes in favour of the petitioner, that would nullify the decree obtained by the respondent, execution of which is sought for before the court below.

2. On going through the order, it is seen that the order in E.P. 10 of 2010 was passed after considering

evidence and after elaborate hearing. The same was challenged before this Court in C.R.P. 169 of 2010. The above C.R.P. was disposed of by order dated 4.2.2014 confirming the order of the court below. From a reading of the order in the C.R.P., it is seen that all the contentions have been considered by this Court including the contention based on Ext. C4 report which this Court found unacceptable while deciding the C.R.P. made mention of above.

Under these circumstances, there is nothing to interfere with the order of the court below. This Original Petition is dismissed. None of the observations made by this Court or the execution court shall not stand in the way of the court below while disposing of the matter on merits.

sb.

P. BHAVADASAN,
JUDGE