

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

OP(C).No. 826 of 2015 (O)

**AS 70/2014 of SUB COURT, TIRUR IN O.S. 65/2013 OF MUNSIFF MAGISTRATE
COURT, PONNANI**

PETITIONER(S):

**FAISAL, AGED 30 YEARS,
S/O. MOIDUNNI, ADICHUKULANGARA HOUSE,
KALLOORMA, NANNAMMUKKU (PO),
PONANI, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.M.I.JOHNSON
SRI.T.K.MOIDEEN KUTTY**

RESPONDENT(S):

- 1. PARAMESWRAN, AGED 53 YEARS,
S/O. CHATHAR, ILLAPPARAMBIL HOUSE,
KALLOORMA, NANNAMMUKKU (PO),
PONANI, MALAPPURAM DISTRICT.
PIN 679 575.**
- 2. HUSSAIN, AGED 44 YEARS,
S/O. MOIDUNNI, ADICHUKULANGARA HOUSE,
KALLOORMA, NANNAMMUKKU (PO),
PONANI, MALAPPURAM DISTRICT,
PIN 679 575.**
- 3. SAKKEER, AGED 37 YEARS,
S/O. MOIDUNNI, ADICHUKULANGARA HOUSE,
KALLOORMA, NANNAMMUKKU (PO),
PONANI, MALAPPURAM DISTRICT,
PIN 679 575.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP(C).No. 826 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE JUDGMENT DATED 30.07.2014 IN O.S. 65/2013 OF
MUNSIFF MAGISTRATE COURT, PONANI.
- EXT.P2: COPY OF THE APPEAL MEMORANDUM IN A.S. 70/2014 FILED BEFORE
THE SUBORDINATE JUDGE, TIRUR.
- EXT.P3: COPY OF I.A. 1568/2014 IN A.S. NO. 70/2014 DATED 27.08.2014.
- EXT.P4: COPY OF THE COUNTER DATED 14.01.2015.
- EXT.P5: COPY OF I.A. 512/2015 DATED 03.03.2015.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

P.BHAVADASAN, J.

O.P.(C) No. 826 of 2015

Dated this the 24th day of March, 2015

J U D G M E N T

The limited prayer made at the time of hearing of this petition is that there may be a direction to the Sub Court, Tirur to take up A.S. No. 70/2014 and also the two interlocutory applications filed in the said appeal namely I.A.No.1568/2014 for stay of execution of the decree in the suit and I.A.No.512/2015 for issuance of a Commission for consideration.

2. The grievance is that under the guise of execution of the decree, now the respondents are encroaching into the property of the petitioner and causing irreparable loss and injury to him. The petitioner therefore prays that there may be a direction to the court below to dispose of the above matters.

3. The suit was one for permanent prohibitory injunction in which a decree has been passed against the petitioner and he has promptly filed an appeal against the judgment and decree. Even assuming that the appeal could not have been heard due to some reason, there was no justification for keeping the interlocutory applications pending without considering the same, especially, when the petitioner had pointed out the urgency for disposing of the interlocutory applications.

4. In the nature of the order that is proposed to be passed in the petition, it is felt that notice to the respondents is unnecessary.

This petition is disposed of directing the court below to take up the appeal made mention of earlier and also the I.A. for Commission at the earliest and dispose them of as early as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

The stay petition is directed to be taken up immediately and orders may be passed on the stay petition before the summer vacation begins.

**P.BHAVADASAN
JUDGE**

ds