

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

OP(C).No. 858 of 2015 (O)

OS 127/2005 OF SUB COURT, MAVELIKKARA
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PETITIONER(S):

1. RENJITH BABU, AGED 57 YEARS,
S/O.ACHUTHAN CHANNAR, SREENILAYAM, CHINGOLI MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.
2. SURESHKUMAR, AGED 52 YEARS,
S/O.SUDHAKARAN, KANINTAEKANNEL, CHINGOLI MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

BY ADV. SRI.G.BENO

RESPONDENT(S):

1. HARI RAJAN K., AGED 73 YEARS,
S/O.LATE KESAVAN, PADANNAKKAL HOUSE, CHINGOLI MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 688 001.
2. ASHOKUMAR U.,
S/O.LATE UTHAMAN, ARESSERIL, CHINGOLI P.O.,
CHINGOLI MURI, CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 688 001.
3. VENUGOPALAN, AGED 70 YEARS,
S/O.ACHUTHAN CHANNAR, ASWATHY, MUTTAM P.O.,
PALLIPPAD MURI, PALLIPPAD VILLAGE,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT - 688 001.
4. ANIRUDHAN CHANNAR, AGED 79 YEARS,
S/O.KUNJUPANICKER, MATTATHU VEEDU, PRAYAR MURI,
PUTHUPPALLY, KAYAMKULAM, ALAPPUZHA DISTRICT - 688 001.

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5. AJITH RAM K.R, AGED 55 YEARS,
S/O.RAGHAVAN CHANNAR, AARADHANAM, CHINGOLI MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 688 001.
6. SIVADASAN, AGED 65 YEARS,
S/O.VELAYUDHAN CHANNAR, NIKESH BHAVANAM, CHINGOLI MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT - 688 001.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 27-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE JUDGMENT DATED 12/03/92 OF THE HON'BLE HIGH COURT OF KERALA IN AS NO 235/1990.

EXT.P2: TRUE COPY OF THE O.S NO 127/2005 PENDING BEFORE THE HON'BLE SUB COURT, MAVELIKKARA.

EXT.P3: TRUE COPY OF THE I.A NO 283/2010 PENDING BEFORE THE HON'BLE SUB COURT, MAVELIKKARA.

EXT.P4: TRUE COPY OF THE I.A NO 1355/2014 PENDING BEFORE THE HON'BLE SUB COURT, MAVELIKKARA.

EXT.P5: TRUE COPY OF THE I.A NO 1356/2014 PENDING BEFORE THE HON'BLE SUB COURT, MAVELIKKARA.

EXT.P6: TRUE COPY OF THE RECEIPT DATED 05-12-2010 BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. BHAVADASAN, J.

O.P.(C). No. 858 of 2015

Dated this the 27th day of March, 2015.

JUDGMENT

The matter relates to a scheme suit pending as O.S. 127 of 2005 pending before Sub Court, Mavelikara.

2. The dispute relates to Karimarathigal Bhadrakali temple in respect of which a scheme is sought to be framed. Already there have been litigations between the parties as evidenced by Ext.P1 wherein the right of the senior most member of tarawad was recognized with liberty to move a scheme suit for the management of the temple. In pursuance to the said observation, the present suit namely, O.S. 127 of 2005, was laid.

3. Due to the laches on the part of the plaintiffs, the suit was dismissed for default. Ext.P3 was filed to restore the suit. Since the plaintiffs failed to take steps to issue notice to defendants 3 and 4, the court below dismissed the restoration application. Though a review

petition was filed, wisdom dawned on the petitioners who filed Exts.P4 and P5 petitions, namely, to condone the delay of 1518 days in filing Ext.P5 petition and the other for restoration of Ext.P3 application which was dismissed for default.

4. The complaint of the petitioners is that Exts.P4 and P5 now stands posted to 21.5.2015 and in the meanwhile persons in management of the temple are trying to sell the gold ornaments belonging to the deity. It is therefore prayed that in addition to the direction to the court below to take up Exts.P3 to P5 and dispose it of as early as possible, there may be an order of interim injunction restraining respondents 1 to 4 from selling the gold ornaments of the temple.

5. One has to remember that the suit is of the year 2005 and we are in 2015 and nothing has been done in the suit. It has been very casually conducted. Further, the suit was dismissed for default due to the lethargy on the

part of the plaintiffs and the application to restore the suit was also dismissed.

6. Exts. P4 and P5 are two applications, one for condonation of delay in filing the restoration application and another for restoring the application filed for restoring the suit which was dismissed for default. It may not be proper in the state of affairs as has been obtained, to pass any order against respondents 1 to 4 in those petitions.

It is felt that interests of justice will be preserved by directing the court below that in case the petitioners file a petition to advance the hearing of Exts.P4 and P5, the said petition shall be considered favourably and dispose it of in accordance with law.

sb.

P. BHAVADASAN,
JUDGE