

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. 883 of 2015 (O)

IA NO. 2321/2014 IN OS NO. 34/2012 OF PRINCIPAL MUNSIF COURT, PALAKKAD
DATED 7.2.2015

PETITIONERS :

1. SANKARAN NAIR
76 YEARS, S/O. KANNU AMMA
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
2. CHIPPUKUTTY NAIR
S/O. KANNUR AMMA, VARAVARA VEEDU
KANNADI, PALAKKAD – 678 701.

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENT(S) :

1. KUMARAN NAIR
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
2. NARAYANAN NAIR
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
3. RAMANKUTTY NAIR
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
4. GOPALAN KUTTY NAIR
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
5. PUSHPALATHA
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
6. RAVEENDRAN
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.

7. RADHAKRISHNAN
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
8. PREMALATHA
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
9. ERESANKUTTY
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.
10. GIRIJA DEVI
VARAVARA VEEDU, KANNADI
PALAKKAD – 678 701.

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

Mn

...3/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF OS NO. 34/2012 DATED 4.1.2012 ON THE FILE OF PRINCIPAL MUNSIF COURT, PALAKKAD.
- EXT.P2 COPY OF WRITTEN STATEMENT IN OS 34/2012 DATED 19.3.2012 ON THE FILE OF PRINCIPAL MUNSIF COURT, PALAKKAD.
- EXT.P3 COPY OF IA NO. 2321/2014 DATED 12.8.2014 IN OS 34/2012.
- EXT.P4 COPY OF OBJECTION TO IA 2321/14 DATED 19.8.2014 FILED BY DEFENDANTS.
- EXT.P5 COPY OF ORDER IN IA 2321/14 DATED 7.2.2014 ON THE FILE OF MUNISFF COURT (PRINCIPAL) PALAKKAD.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.BHAVADASAN, J.

O.P.(C) No. 883 of 2015

Dated this the 27th day of March, 2015

J U D G M E N T

Under challenge is Ext.P5 order whereby the court below declined to send two documents said to have been executed by Kannu Amma for expert's opinion.

2. The petitioners before this Court are the plaintiffs in the suit. They challenged the sale deeds said to have been executed by the Kannu Amma on the ground that the documents were obtained by misrepresentation and other vitiating circumstances. The original of the documents were produced on 14.11.2011. Ext.P4, I.A. was filed to have the documents sent for expert's opinion to establish that the signature found on the disputed documents did not belong to Kannu Amma.

3. The court below noticed that there were no allegations that the signature did not belong to Kannu Amma and in fact, there was no specific denial of signature

on the documents. But on the other hand, it was certain vitiating circumstances that were pleaded to have the documents set aside. Accordingly, since there was no pleadings to the effect that the signature did not belong to Kannu Amma, the court below declined to grant relief sought for in the petition.

4. The learned counsel appearing for the petitioners contended that the act of the court below amounts to denying petitioners' an opportunity to adduce evidence in their favour and that causes grave injustice.

5. There is no basis for the above contention. As of now, going by the pleadings, there is no case for the plaintiffs that the signature found on the disputed documents is not that of Kannu Amma. As rightly noticed by the court below, the pleadings as they now stand are to the effect that the documents are not good in law due to vitiating circumstances. Even otherwise, the expert's opinion is not the only way of proving the signature of a

person concerned. There are other modes of proving the signature of a person to which the petitioners can take recourse to, if they are entitled in law to do so and advised so.

With the above observation, this petition is dismissed.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge