

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

OP(C).No. 921 of 2015 (O)

(OS 328/2009 of MUNSIFF COURT, WADAKKANCHERRY)

PETITIONERS:

1. KANCHANAVALLI, AGED 52, D/O. GOVINDHAN NAIR,
ADIYIL NIVAS, CHOYANNUR VIA, THRISSUR DISTRICT.
2. RAMACHANDRAN, AGED 57, CHERIYIL VEEDU,
CHOVANNUR VIA, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. UNNIKRISHNAN, AGED 43, S/O.ADIYIL CHERUVATHUR
GOVINDHAN NAIR, CHOYANNUR VILLAGE,
THRISSUR - 680 001.
2. RAMAKIRAN, AGED 21, S/O. RAMACHANDRAN, ADIYIL HOUSE,
CHOVANNUR VILLAGE DESOM, TALAPPILLY TALUK,
THRISSUR - 680 001.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 921/2015

A P P E N D I X

PETITIONERS' EXHIBITS:

- EXT. P1 : COPY OF DECREE PASSED IN O.S.328/2009
DTD. 15.6.10 OF MUNSIFF COURT, WADAKKANCHERRY.
- EXT. P2 : COPY OF APPEAL MEMORANDUM IN A.S.325/2010
DTD. 12.10.2010 OF DISTRICT COURT, THRISSUR.
- EXT. P3 : COPY OF I.A.7337/14 IN EXT.P2 DTD.20.12.14 OF SUB
COURT, THRISSUR.
- EXT. P4 : COPY OF I.A.1575/2015 IN I.A.7337/14 IN A.S.135/14
DTD.12.3.15 OF SUB COURT, THRISSUR.
- EXT. P5 : COPY OF E.P.272/2010 IN O.S.328/2009 OF MUNSIFF
COURT, WADAKKANCHERRY DTD.15.9.10.

RESPONDENTS' EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.921 OF 2015

Dated this the 31st day of March, 2015.

J U D G M E N T

The limited prayer in this original petition is for a direction to the Sub Court, Thrissur to consider Exts.P3 and P4 and till that applications are considered, stay further proceedings in Ext.P5.

2. The petitioners suffered a decree in O.S.No.328/2009 before the Munsiff Court, Wadakkanchery. The suit is one for mandatory injunction and an ex parte decree was passed in the suit. Assailing the decree, the petitioners filed A.S.No.325/2010 before the District Court, Thrissur. The said appeal was made over to Sub Court, Thrissur. In the appeal, the petitioners had filed I.A.No.3418/2010 for staying the operation of the judgment and decree in the suit and the stay was granted. The appeal was dismissed for default on 27.11.2014. On 20.12.2014, an application for re-admitting the appeal was filed as I.A.No.7337/2014, a copy of which is produced as Ext.P3. Unfortunately, that application was also dismissed for default.

Thereafter Ext.P4 application was filed to restore Ext.P3 application.

3. The grievance of the petitioners is that in the meantime execution proceedings are being continued and if delivery is effected, that may cause irreparable loss and injury to the petitioners. The petitioners therefore pray that till Exts.P3 and P4 applications are considered, execution proceedings may be kept in abeyance.

4. After hearing the learned counsel appearing for the petitioners, it is felt that the prayer made by the petitioners seems to be reasonable.

The Sub Court, Thrissur is directed to take up Exts.P3 and P4 forthwith and dispose them of on merits in accordance with law, after hearing the parties concerned, before summer vacation begins and till Exts.P3 and P4 are considered, execution proceedings shall be kept in abeyance.

This original petition is disposed of as above.

Sd/-

P.BHAVADASAN
JUDGE

smp