

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

OP(C).No. 955 of 2015 (O)

IN O.S.NO.280/2001 OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM

APPELLANT(S) :

1. THANKACHAN,
AGED 50 YEARS, S/O.VARGHESE, PALTHUTHAYIL HOUSE,
POONKAVU, PATHIRAPPILLY P.O.,
ALAPPUZHA NOW RESIDING AT VIKRAMATH HOUSE,
MARADU VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT-682 304.
- 2 ROSILY THANKACHAN,
AGED 47, W/O.THANKACHAN,
NOW RESIDING AT VIKRAMATH HOUSE,
MARADU VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT-682 304.

BY ADV. SRI.B.S.SURESH KUMAR.

RESPONDENT(S) :

1. RAJAKRISHNAN,
AGED 48, S/O.KRISHNAN, SOUPARNIKA,
98, 34/160, GIRINAGAR NORTH, ERNAKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 020.
2. TELMA,
AGED 48, D/O.SOURO @ XAVIER,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
3. TENCY,
AGED 30, D/O.SOURO @ XAVIER,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
4. LAISSA,
AGED 28, D/O.SOURO @ XAVIER,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.

5. TELS, Y,
AGED 54 YEARS, D/O.V.T.JOSEPH,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
6. THANKAMANI,
AGED 52, D/O.V.T.JOSEPH,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
7. JESSY,
AGED 50, D/O.V.T.JOSEPH,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
8. OMANA,
AGED 48 (DIED), D/O.V.T.JOSEPH,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
9. V.T.ANNAKKUTTY,
AGED 86(DIED), D/O.V.T.JOSEPH,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
10. SHERLY,
AGED 34, D/O.VINCENT,
VIKRAMATH HOUSE, MARADU VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 304.
11. TEMPLA,
D/O.V.T.JOSEPH, VIKRAMATH HOUSE, ARAYED NORTH P.O.,
ALAPPUZHA DISTRICT-688 538.
12. JIJO VARGHESE,
D/O.V.T.JOSEPH, VIKRAMATH HOUSE, ARAYED NORTH P.O.,
ALAPPUZHA DISTRICT-688 538.
13. JESSY MOL,
D/O.V.T.JOSEPH, VIKRAMATH HOUSE, ARAYED NORTH P.O.,
ALAPPUZHA DISTRICT-688 538.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1. TRUE COPY OF THE ORDER DATED 6/7/2011 IN EA 170/2010 IN EP NO.57/2010 IN OS NO.280/2001 ON THE FILE OF PRL. MUNSIF COURT AT ERNAKULAM.

EXT.P2. TRUE COPY OF THE ORDER DATED 15/7/2011 IN EP NO.57/2010 IN OS NO.280/2001 ON THE FILE OF PRL. MUNSIF COURT AT ERNAKULAM.

EXT.P3. TRUE COPY OF THE ORDER DATED 17/1/2015 IN EP NO.57/2010 IN OS NO.280/2001 ON THE FILE OF PRL. MUNSIF COURT AT ERNAKULAM.

EXT.P4. TRUE COPY OF THE REVIEW APPLICATION EA NOS. 147/2015.

EXT.P5. TRUE COPY OF THE ORDER IN REVIEW APPLICATION DATED 26/3/2005 IN EA NOS. 147/2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P. BHAVADASAN, J.

O.P.(C). No. 955 of 2015

Dated this the 1st day of April, 2015.

JUDGMENT

Under challenge is Ext.P5 order whereby the review petition filed by the petitioners was rightly dismissed by the court below.

2. In a suit for partition, preliminary decree was passed, so also final decree. While attempting to take delivery of the property, petitioners raised a claim over the property. The claim put forward by the petitioners was found against by the court below and delivery was ordered. The petitioners now came forward with a case that they have not been heard before ordering delivery and therefore, they sought for review of the earlier order of the court below dismissing their claim petition.

3. Assailing the order, learned counsel for the petitioners submits that the petitioners are in actual

possession and they ought to have been heard before delivery is ordered and effected since their rights are affected.

4. There is no basis for the above contention at all. The petitioners came to know of the proceedings and suffered an order in the claim petition. Under these circumstances, the court below was perfectly justified in dismissing the review petition. Ext.P5 suffers from no infirmity, either legal or factual. There is no illegality or impropriety in the said order.

This Original Petition is without merits and it is dismissed.

sb.

P. BHAVADASAN,
JUDGE